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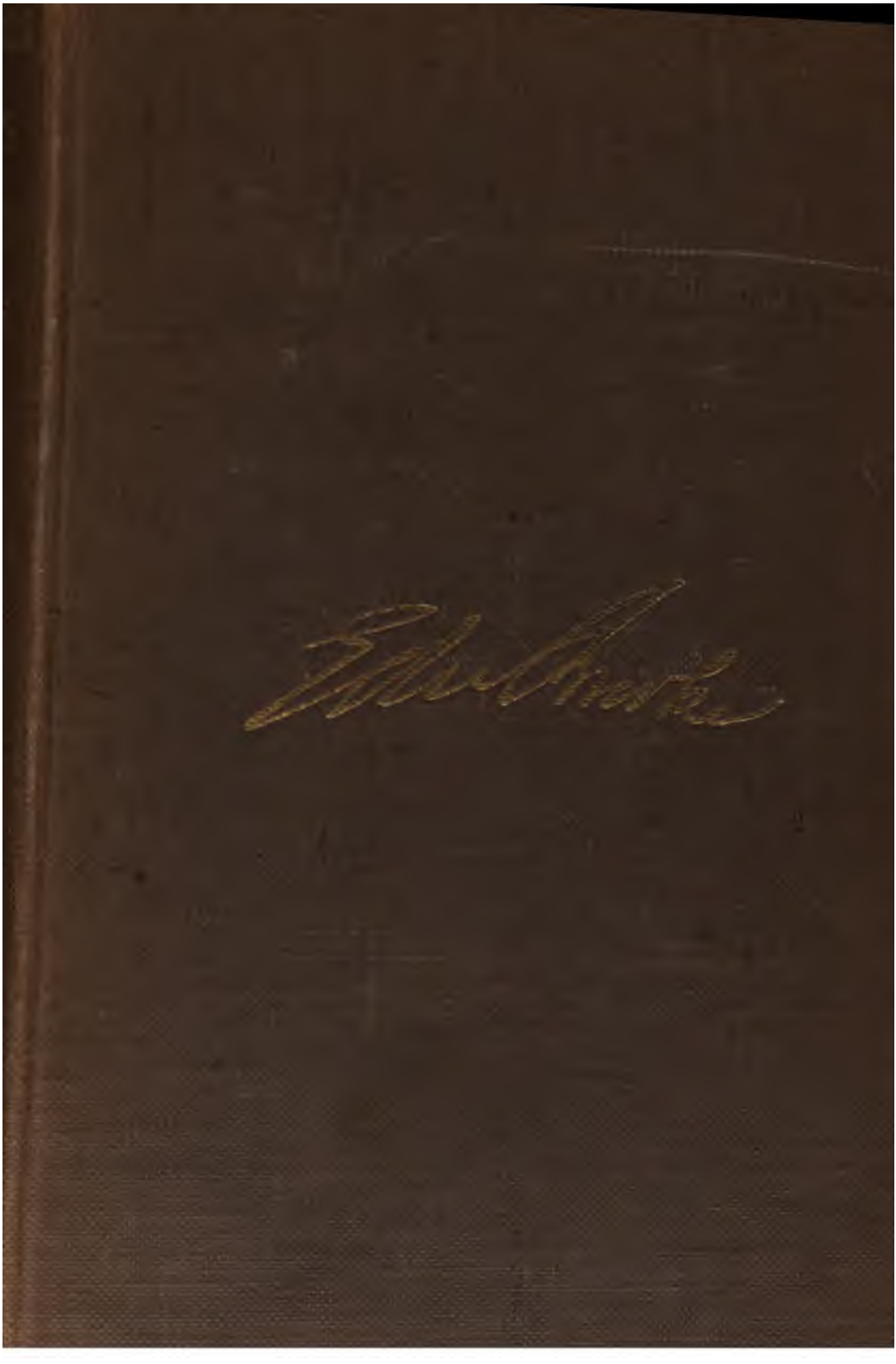

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OF

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EDMUND BURKE

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ARTICLES OF CHARGE

OF

HIGH CRIMES AND MISDEMEANORS

AGAINST

WARREN HASTINGS, ESQUIRE,

LATE GOVERNOR-GENERAL OF BENGAL:

PRESENTED TO THE HOUSE OF COMMONS

IN APRIL AND MAY, 1786.

ARTICLES VII.—XXII.

ARTICLES OF CHARGE

AGAINST

WARREN HASTINGS, ESQ.,

LATE GOVERNOR-GENERAL OF BENGAL.

(CONTINUED.)

VII.—CONTRACTS.

THAT the Court of Directors of the East India Company had laid down the following fundamental rules for the conduct of such of the Company's business in Bengal as could be performed by contract, and had repeatedly and strictly ordered the Governor and Council of Fort William to observe those rules, viz.: That all contracts should be publicly advertised, and the most reasonable proposals accepted; that the contracts of provisions, and for furnishing draught and carriage bullocks for the army, should be *annual;* and that they should not fail to advertise for and receive proposals for those contracts *every year.*

That the said Warren Hastings, in direct disobedience to the said positive orders, and, as the Directors themselves say, *by a most deliberate breach of his duty*, did, in September, 1777, accept of proposals offered by Ernest Alexander Johnson for providing draught and carriage bullocks, and for victualling the Europeans, without advertising for proposals, as he was expressly commanded to do, and extended the contract for *three years*, which was positively ordered to

be *annual*, — and, notwithstanding that extension of the period, which ought at least to have been compensated by some advantage to the Company in the conditions, did conclude the said contract *upon terms less advantageous than the preceding contract, and therefore not on the lowest terms procurable.* That the said Warren Hastings, in defiance of the judgment and lawful orders of his superiors, which in this case left him no option, declared, that *he disapproved of publishing for proposals, and that the contract was reduced too low already:* thereby avowing himself the advocate of the contractor, against whom, as representative of the Company, and guardian of their interests, he properly was party, and preferring the advantage of the contractor to those of his own constituents and employers. That the Court of Directors of the East India Company, having carefully considered the circumstances and tendency of this transaction, condemned it in the strongest terms, declaring, that they would *not permit* the contract to be continued, and that, "if the contractor should think himself aggrieved, and take measures in consequence by which the Company became involved in loss or damage, they should certainly hold the majority of the Council responsible for such loss or damage, and proceed against them accordingly." — That the said Warren Hastings, in defiance of orders, which the Directors say were *plain and unequivocal*, did, in January, 1777, receive from George Templer a proposal essentially different from the advertisement published by the Governor-General and Council for receiving proposals for feeding the Company's elephants, and did accept thereof, not only without having recourse to the proper means for ascertaining whether the said proposal was

the lowest that would be offered, but with another actually before the board nearly thirty per cent lower than that made by the said George Templer, to whom the said Warren Hastings granted a contract, in the terms proposed by the said Templer, for three years, and did afterwards extend the same to five years, with new and distinct conditions, accepted by the said Warren Hastings, without advertising for fresh proposals, by which the Company were very considerable losers: on all which the Court of Directors declared, "that this waste of their property could not be permitted; that he, the said Warren Hastings, had disregarded their authority, and disobeyed their orders, in not taking the lowest offers"; and they ordered that the contract for elephants should be annulled: and the said Directors further declared, that, "if the contractor should recover damages of the Company for breach of engagement, they were determined, in such case, to institute a suit at law against those members of the board who had presumed, in direct breach of their orders, to prefer the interest of an individual to that of the Company."—That the said Warren Hastings did, in the year 1777, conclude with ——— Forde a contract for an armed vessel for the pilotage of the Chittagong river, and for the defence of the coast and river against the incursions of robbers, for the term of five years, in further disobedience of the Company's orders respecting the mode and duration of contracts, and with a considerable increase of expense to the Company. That the farming out the defence of a country to a contractor, being wholly unprecedented, and evidently absurd, could have no real object but to enrich the contractor at the Company's expense: since either the service was not dangerous,

and then the establishment was totally unnecessary, or, if it was a dangerous service, it was evidently the interest of the contractor to avoid such danger, and not to hazard the loss of his ship or men, which must be replaced at his own expense, and therefore that an active and faithful discharge of the contractor's duty was incompatible with his interest. — That the said Warren Hastings, in further defiance of the Company's orders, and in breach of the established rule of their service, did, in the year 1777, conclude a contract with the master and deputy master attendant of the Company's marine or pilot service, for supplying the said marine with naval stores, and executing the said service for the term of two years, and without advertising for proposals. That the use and expenditure of such stores and the direction of the pilot vessels are under the management and at the disposition of the master attendant by virtue of his office; that he is officially the proper and regular check upon the person who furnishes the stores, and bound by his duty to take care that all contracts for furnishing such stores are duly and faithfully executed. That the said Warren Hastings, by uniting the supply and the check in the same hands, did not only disobey the Company's specific orders, and violate the fundamental rules and practice of the service, but did overset the only just and rational principle on which this and every other service of a similar nature ought to be conducted, and did not only subject the Company's interest, in point of expense, to fraud and collusion, but did thereby expose the navigation of the Bengal river to manifest hazard and distress: considering that it is the duty of the master attendant to take care that the pilot vessels are constantly stationed in

the roads to wait the arrival of the Company's ships, especially in tempestuous weather, and that they should be in a constant condition to keep the sea; whereas it is manifestly the interest of the contractor, in the first instance, to equip the said vessels as scantily as possible, and afterwards to expose them as little as possible to any service in which the stores to be replaced by him might be lost or consumed. And, finally, that in June, 1779, the said contract was prolonged to the said master attendant, by the said Warren Hastings, for the further period of two years from the expiration of the first, without advertising for proposals. — That it does not appear that any of the preceding contracts have been annulled, or the charges attending any of them abated, or that the Court of Directors have ever taken any measures to compel the said Warren Hastings to indemnify the Company, or to make good any part of the loss incurred by the said contracts.

That in the year 1777 the said Warren Hastings did recommend and appoint John Belli, at that time his private secretary, to be agent for supplying the garrison of Fort William with victualling stores; that the stores were to be purchased with money advanced by the Company, and that the said agent was to be allowed a commission or percentage for his risk and trouble; that, in order to ascertain what sum would be a reasonable compensation for the agent, the Governor-General and Council agreed to consult some of the principal merchants of Calcutta; that the merchants so consulted reported their opinion, that twenty per cent on the prime cost of the stores would be a reasonable compensation to the agent; that, nevertheless, the said Warren Hastings, supported by the

vote and concurrence of Richard Barwell, then a member of the Supreme Council, did propose and carry it, that thirty per cent per annum should be allowed upon all stores to be provided by the agent. That the said Warren Hastings professed that "he preferred an agency to a contract for this service, because, if it were performed by contract, it must then be advertised, and the world would know what provision was made for the defence of the fort": as if its being publicly known that the fort was well provided for defence were likely to encourage an enemy to attack it. That in August, 1779, in defiance of the principle laid down by himself for preferring an agency to a contract, the said Warren Hastings did propose and carry it, that the agency should be *converted into a contract*, to be granted to the said John Belli, without advertising for proposals, and fixed for the term of five years, — "pretending that he had received frequent remonstrances from the said agent concerning the heavy losses and inconveniences to which he was *subjected* by the indefinite terms of his agency," notwithstanding it appeared by evidence produced at the board, that, on a supply of about 37,000*l.*, he had already drawn a commission of 22,000*l.* and upwards. That the said Warren Hastings pledged himself, that, *if required by the Court of Directors, the profits arising from the agency should be paid into the Company's treasury, and appropriated as the Court should direct.* That the Court of Directors, as soon as they were advised of the first appointment of the said agency, declared that they considered the commission of twenty per cent as an ample compensation to the agent, and did positively order, that, according to the engagement of the said Warren Hastings, "the com-

mission paid or to be paid to the said agent should be reduced to twenty pounds per cent." That the said John Belli did positively refuse to refund any part of the profits he had received, or to submit to a diminution of those which he was still to receive; and that the said Warren Hastings has never made good his own voluntary and solemn engagement to the Court of Directors hereinabove mentioned: and as his failure to perform the said engagement is a breach of faith to the Company, so his performance of such engagement, if he had performed it, and even his offering to pledge himself for the agent, in the first instance, ought to be taken as presumptive evidence of a connection between the said Warren Hastings and the said agent, his private secretary, which ought not to exist between a Governor acting in behalf of the Company and a contractor making terms with such Governor for the execution of a public service.

That, before the expiration of the contract hereinbefore mentioned for supplying the army with draught and carriage bullocks, granted by the said Warren Hastings to Ernest Alexander Johnson for three years, the said Warren Hastings did propose and carry it in Council, that a new contract should be made on a new plan, and that an offer thereof should be made to Richard Johnson, brother and executor of the said contractor, without advertising for proposals, for the term of *five years;* that this offer was *voluntarily accepted* by the said Richard Johnson, who at the same time desired and obtained that the new contracts should be made out in the name of Charles Croftes, the Company's accountant and sub-treasurer at Fort William; that the said Charles Croftes offered the said Richard Johnson as one of his securities for the

performance of the said contract, who was accepted as such by the said Warren Hastings; and that, at the request of the said contractor, the contract for victualling the Europeans serving at the Presidency was added to and united with that for furnishing bullocks, and fixed for the same period. That this extension of the periods of the said contracts was not compensated by a diminution in the charge to be incurred by the Company on that account, as it ought to have been, but, on the contrary, the charge was immoderately increased by the new contracts, insomuch that it was proved by statements and computations produced at the board, that the increase on the victualling contract would in five years amount to 40,000*l.*, and that the increase on the bullock contract in the same period would amount to above 400,000*l.* That, when this and many other weighty objections against the terms of the said contracts were urged in Council to the said Warren Hastings, he declared that *he should deliver a reply thereto;* but it does not appear that he did ever deliver such reply, or ever enter into a justification of any part of his conduct in this transaction.—That the act of Parliament of 1773, by which the first Governor-General and Council were appointed, did expressly limit the duration of their office to the term of five years, which expired in October, 1779, and that the several contracts hereinbefore mentioned were granted in September, 1779, and were made to continue *five* years after the expiration of the government by which they were granted. That by this anticipation the discretion and judgment of the succeeding government respecting the subject-matter of such contracts was taken away, and any correction or improvement there-

in rendered impracticable. That the said Warren Hastings might have been justified by the rules and practice or by the necessity of the public service in binding the government by engagements to endure one year after the expiration of his own office; but on no principles could he be justified in extending such engagements beyond the term of one year, much less on the principles he has avowed, namely, "that it was only an act of common justice in him to secure *every man connected with him*, as far as he legally could, from the apprehension of future oppression." That the oppression to which such apprehension, if real, must allude, could only consist in and arise out of the obedience which he feared a future government might pay to the orders of the Court of Directors, by making all contracts *annual*, and advertising for proposals publicly and indifferently from all persons whatever, by which it might happen that such beneficial contracts would not be constantly held by men *connected with him*, the said Warren Hastings. That this declaration, made by the said Warren Hastings, combined with all the circumstances belonging to these transactions, leaves no room to doubt, that, in disobeying the Company's orders, and betraying the trust reposed in him as guardian of the Company's property, his object was to purchase the attachment of a number of individuals, and to form a party capable of supporting and protecting him in return.

That, with the same view, and on the same principles, it appears that excessive salaries and emoluments, at the East India Company's charge and expense, have been lavished by the said Warren Hastings to sundry individuals, contrary to the general principles of his duty, and in direct contradiction to

the positive orders of the Court of Directors: particularly, that, whereas by a resolution of the Court of Proprietors of the East India Company, and by an instruction of the Court of Directors, it was provided and expressly ordered that there should be paid to the late Sir John Clavering "the sum of six thousand pounds sterling per annum in full for his services as commander-in-chief, in lieu of travelling charges and of all other advantages and emoluments whatever," and whereas the Court of Directors positively ordered that the late "Sir Eyre Coote should receive the *same* pay as commander-in-chief of their forces in India as was received by Lieutenant-General Sir John Clavering," the said Warren Hastings, nevertheless, within a very short time after Sir Eyre Coote's arrival in Bengal, did propose and carry it in Council, that a new establishment should be created for Sir Eyre Coote, by which an increase of expense would be incurred by the India Company to the amount of eighteen thousand pounds a year and upwards, exclusive of and in addition to his salary of ten thousand pounds a year, provided for him by act of Parliament as a member of the Supreme Council, and exclusive of and in addition to his salary of six thousand pounds a year as commander-in-chief, appointed for him by the Company, and expressly fixed to that amount.

That the disobedience and breach of trust of which the said Warren Hastings was guilty in this transaction is highly aggravated by the following circumstances connected with it. That from the death of Sir John Clavering to the arrival of Sir Eyre Coote in Bengal the provisional command of the army had devolved to and been vested in Brigadier-General Giles

Stibbert, the eldest officer on that establishment. That in this capacity, and, as the said Warren Hastings has declared, "standing no way distinguished from the other officers in the army, but by his accidental succession to the first place on the list," he, the said Giles Stibbert, had, by the recommendation and procurement of the said Warren Hastings, received and enjoyed a salary, and other allowances, to the amount of 13,854*l.* 12*s.* per annum. That Sir Eyre Coote, soon after his arrival, represented to the board that a considerable part of those allowances, amounting to 8,220*l.* 10*s.* per annum, ought to devolve to himself, as commander-in-chief of the Company's forces in India, and, stating that the said Giles Stibbert could no longer be considered as commander-in-chief under the Presidency of Fort William, made a formal demand of the same. That the said Warren Hastings, instead of reducing the allowances of the said Giles Stibbert to the establishment at which they stood during General Clavering's command, and for the continuance of which after Sir Eyre Coote's arrival there could be no pretence, continued the allowances of 13,854*l.* 12*s.* per annum to the said Giles Stibbert, and at the same time, in order to appease and satisfy the demand of the said Sir Eyre Coote, did create for him that new establishment, hereinbefore specified, of eighteen thousand pounds per annum, — insomuch that, instead of the allowance of *six thousand pounds a year, in lieu of travelling charges, and of all emoluments and allowances whatsoever*, to which the pay and allowances of commander-in-chief were expressly limited by the united act of the legislative and executive powers of the Company, the annual charge to be borne by the

Company on that account was increased by the said Warren Hastings to the enormous sum of thirty-eight thousand two hundred and seventeen pounds ten shillings sterling.

That on the 1st of November, 1779, the said Warren Hastings did move and carry it in Council, "that the Resident at the Vizier's court should be furnished with an account of all the extra allowances and charges of the commander-in-chief when in the field, with orders to add the same to the debit of the Vizier's account, as a part of his general subsidy, — the charge to commence from the day on which the general shall pass the Caramnassa, and to continue till his return to the same line." That this additional expense imposed by the said Warren Hastings on the Vizier was unjust in itself, and a breach of treaty with that prince: the specific amount of the subsidy to be paid by him having been fixed by a treaty, to which no addition could justly be made, but at the previous requisition of the Vizier. That the Court of Directors, in their letter of the 18th of October, 1780, did condemn and prohibit the continuation of the allowances above mentioned to Sir Eyre Coote in the following words: "These allowances appear to us in a light so very extraordinary, and so repugnant to the spirit of a resolution of the General Court of Proprietors respecting the allowance made to General Clavering, that we positively direct that they be discontinued immediately, and no part thereof paid after the receipt of this letter." That on the 27th of April, 1781, the Governor-General and Council, in obedience to the orders of the Directors, did signify the same to the Commissary-General, as an instruction to him that the extraordinary allowances to Sir Eyre Coote *should*

be discontinued, and no part thereof paid after that day. That it appears, nevertheless, that the said extra allowances (amounting to above twenty thousand pounds sterling a year) were continued to be charged to the Vizier, and paid to Sir Eyre Coote, in defiance of the orders of the Court of Directors, in defiance of the consequent resolution of the Governor-General and Council, and in contradiction to the terms of the original motion made by the said Warren Hastings for adding those allowances to the debit of the Vizier, viz., "that they should continue till Sir Eyre Coote's return to the Caramnassa." That Sir Eyre Coote arrived at Calcutta about the end of August, 1780, and must have crossed the Caramnassa, in his return from Oude, some weeks before, when the charge on the Vizier, if at any time proper, ought to have ceased. That it appears that the said allowances were continued to be charged against the Vizier and paid to Sir Eyre Coote for three years after, even while he was serving in the Carnatic, and that this was done by the sole authority and private command of the said Warren Hastings.

That the East India Company having thought proper to create the office of Advocate-General in Bengal, and to appoint Sir John Day to that office, it was resolved by a General Court of Proprietors that a salary of three thousand pounds a year should be allowed to the said Sir John Day, *in full consideration of all demands and allowances whatsoever for his services to the Company at the Presidency of Fort William.* That the said Warren Hastings, nevertheless, shortly after Sir John Day's arrival in Bengal, did increase the said Sir John Day's salary and allowances to six thousand pounds a year, in direct disobedience of the

resolution of the Court of Proprietors, and of the order of the Court of Directors. That the Directors, as soon as they were informed of this proceeding, declared, "that they held *themselves* bound by the resolution of the General Court, and that they could not allow it to be disregarded by the Company's servants in India," and ordered that the increased allowances should be forthwith discontinued. That the said Warren Hastings, after having first thought it necessary, in obedience to the orders of the Court of Directors, to stop the extraordinary allowance which he had granted to Sir John Day, did afterwards resolve that the allowance which had been struck off should be *repaid* to him, upon his signing an obligation to refund the amount which he might receive, in case the Directors should confirm their former orders, already twice given. That in this transaction the said Warren Hastings trifled with the authority of the Company, eluded the repeated orders of the Directors, and exposed the Company to the risk and uncertainty of recovering, at a distant period, and perhaps by a process of law, a sum of money which they had positively ordered him not to pay.

That in the latter part of the year 1776, by the death of Colonel Monson, the whole power of the government of Fort William devolved to the Governor and one member of the Council; and that from that time the Governor-General and Council have generally consisted of an even number of persons, in consequence of which the casting voice of the said Warren Hastings has usually prevailed in the decision of all questions. That about the end of the year 1776 the whole civil establishment of the said government did not exceed 205,399*l.* per annum; that in the year

1783 the said civil establishment had been increased to the enormous annual sum of 927,945*l.* That such increase in the civil establishment could not have taken place, if the said Warren Hastings, who was at the head of the government, with the power annexed to the casting voice, had not actively promoted the said increase, which he had power to prevent, and which it was his duty to have prevented. That by such immoderate waste of the property of his employers, and by such scandalous breach of his fidelity to them, it was the intention of the said Warren Hastings to gain and secure the attachment and support of a multitude of individuals, by whose united interest, influence, and intrigues he hoped to be protected against any future inquiry into his conduct. That it was of itself highly criminal in the said Warren Hastings to have so wasted the property of the East India Company, and that the purpose to be obtained by such waste was a great aggravation of that crime.

That among the various instances of profusion by which the civil establishment of Fort William was increased to the enormous annual sum hereinbefore mentioned, it appears that a Salt Office was created, of six commissioners, whose annual emoluments were as follows, viz.: —

President, or Comptroller, per annum	£ 18,480
1st member	13,100
2d do.	11,480
3d do.	13,183
4th do.	6,257
5th do.	10,307
	£ 72,807

That a Board of Revenue was created by the said Warren Hastings, consisting of five commissioners, whose annual emoluments were as follows, viz.:-

1st member, per annum	. . . .	£ 10,950
2d do.	. . . . .	9,100
3d do.	. . . . .	9,100
4th do.	. . . . .	9,100
5th do.	. . . . .	9,100
		£ 47,350

That David Anderson, Esquire, first member of the said board, did not execute the duties, though he received the emoluments of the said office: having acted, for the greatest part of the time, as ambassador to Mahdajee Sindia, with a further salary of 4,280*l.* a year, making in all 15,230*l.* a year.

That the said Warren Hastings did create an office of Agent-Victualler to the garrison of Fort William, whose profits, on an average of three years, were 15,970*l.* per annum. That this agency was held by the Postmaster-General, who in that capacity received 2,200*l.* a year from the Company, and who was actually no higher than a writer in the service. That the person who held these lucrative offices, viz., John Belli, was private secretary to the said Warren Hastings.

That the said Warren Hastings created a nominal office of Resident at Goa, where the Company never had a Resident, nor business of any kind to transact, and gave the said nominal office to a person who was not a covenanted servant of the Company, with an allowance of 4,280*l.* a year.

That these instances are proofs of a criminal pro-

fusion and high breach of trust to the India Company in the said Warren Hastings, under whose government, and by means of whose special power, derived from the effect of his casting voice, all the said waste and profusion did take place.

That at the end of the year 1780, when, as the Court of Directors affirm, *the Company were in the utmost distress for money, and almost every department in arrear*, and when it appears that there was a great scarcity and urgent want of grain at Fort St. George, the said Warren Hastings did accept of a proposal made to him by James Peter Auriol, then Secretary to the Council, to supply the Presidency of Fort St. George with rice and other articles, and did appoint the said Auriol to be the agent for supplying *all the other* Presidencies with those articles; that the said Warren Hastings declared that the intention of the appointment "was most likely to be fulfilled by a liberal consideration of it," and therefore allowed the said Auriol a commission of fifteen per cent on the whole of his disbursements, thereby rendering it the direct interest of the said Auriol to make his disbursements as great as possible; that the chance of capture by the enemy, or danger of the sea, was to be at the risk of the India Company, and not of the said Auriol; that the said Warren Hastings declared personally to the said Auriol, "that this post was intended as a reward for his long and faithful services." That the President and Council of Bombay did remonstrate against what they called *the enormous amount of the charges* of the rice with which they were supplied, which they state to be nine rupees a bag at Calcutta, when they themselves could have contracted for its delivery at Bombay, free of all risk

and charges, at five rupees and three sixteenths per bag; and that even at Madras, where the distress and demand was greatest, the supplies of grain by private traders, charged to the Company, were nineteen per cent cheaper than that supplied by the said Auriol, exclusive of the risk of the sea and of capture by the enemy. That it is stated by the Court of Directors, that the agent's commission on a supply of *a single year* (the said commission being not only charged on the prime cost of the rice, but also on the freight and all other charges) would amount to pounds sterling 26,873, and by the said Auriol himself is admitted to amount to 18,292*l*. That William Larkins, the Accountant-General at Fort William, having been ordered to examine the accounts of the said agent, did report to the Governor-General and Council, that he found them to be *correct in the additions and calculations;* and that then the said Larkins adds the following declaration: "The agent *being upon honor* with respect to the sums charged in his accounts for the cost of the articles supplied, I did not think myself authorized to require *any voucher* of the sums charged for the demurrage of sloops, either as to the time of detention or the rate of the charge, or of those for the articles lost in going down the river; and on that ground I thought myself equally bound to admit the sums acknowledged as received for the sales of goods returned, without requiring vouchers of the rates at which they were sold." That in this transaction the said Warren Hastings has been guilty of a high breach of trust and duty, in the unnecessary expenditure of the Company's money, and in subjecting the Company to a profusion of expense, at all times wholly unjustifiable, but particularly at the time when

that expense was incurred. That the said Warren Hastings was guilty of breach of orders, as well as breach of trust, in not advertising generally for proposals; in not *contracting* indifferently for the supplies with such merchants as might offer to furnish them on the lowest terms; in giving an enormous commission to an agent, and that commission not confined to the prime cost of the articles, but to be computed on the whole of his charges; in accepting of the *honor* of the said agent as a sufficient voucher for the cost of the articles supplied, and for all charges whatever on which his commission was to be computed; and finally, in giving a lucrative agency for the supply of a distressed and starving province as a reward to a Secretary of State, whose labors in that capacity ought to have been rewarded by an avowed public salary, and not otherwise. That, after the first year of the said agency was expired, the said Warren Hastings did agree, that, for the future, the commission to be drawn by the said agent should be reduced to five per cent, which the Governor-General and Council then declared to be *the customary amount drawn by merchants;* but that even in this reduction of the commission the said Warren Hastings was guilty of a deception, and did not in fact reduce the commission from fifteen to five per cent, having immediately after resolved that he, the agent, should be allowed the current interest of Calcutta upon all his drafts on the Treasury from the day of their dates, until they should be completely liquidated; that the legal interest of money in Bengal is twelve per cent per annum, and the current interest from eight to ten per cent.

VIII.—PRESENTS.

THAT, before the appointment of the Governor-General and Council of Fort William by act of Parliament, the allowances made by the East India Company to the Presidents of that government were abundantly sufficient; and that the said Presidents in general, and the said Warren Hastings particularly, was restrained by a specific covenant and indenture, which he entered into with the Company, from accepting any gifts, rewards, or gratuities whatsoever, on any account or pretence whatsoever. That in the Regulating Act passed in the year 1773, which appointed the said Warren Hastings, Esquire, Governor-General of Fort William in Bengal, a salary of twenty-five thousand pounds a year was established for him, to which the Court of Directors added, "that he should enjoy their principal houses, with the plate and furniture, both in town and country, *rent-free.*" That the same law which created the office and provided the salary of the said Warren Hastings did expressly, and in the clearest and most comprehensive terms that could be devised, prohibit him from receiving any present, gift, or donation, in any manner or on any account whatsoever; and that the said Warren Hastings perfectly understood the meaning, and acknowledged the binding force of this prohibition, before he accepted of the office to which it was annexed: he knew, and had declared, that *the prohibition was positive and decisive; that it admitted neither of refinement or misconstruction; and that in his opinion an opposition would be to incur the penalty.*

That, notwithstanding the covenants and engage-

ments above mentioned, it appears in the recorded proceedings of the Governor-General and Council of Fort William, that sundry charges have been brought against the said Warren Hastings for gifts or presents corruptly taken by him before the promulgation of the act of 1773 in India, and that these charges were produced at the Council Board in the presence of the said Warren Hastings. That, in March, 1775, the late Rajah Nundcomar, a native Hindoo, of the highest caste in his religion, and of the highest rank in society, by the offices which he had held under the country government, did lay before the Council an account of various sums of money paid by him to the said Warren Hastings, amounting to forty thousand pounds and upwards, for offices and employments corruptly disposed of by the said Warren Hastings, and did offer and engage to prove and establish the same by sufficient evidence. That this account is stated with a minute particularity and precision; the date of each payment, down to that of small sums, is specified; the various coins in which such payments were severally made are distinguished; and the different persons through whose hands the money passed into those of the said Warren Hastings are named. That such particularity on the face of such a charge, supposing it false, is favorable to the party wrongfully accused, and exposes the accuser to an instant and easy detection: for, though, as the said Warren Hastings himself has observed on another occasion, "papers may be forged, and evidences may appear in numbers to attest them, yet it must always be an *easy* matter to detect the falsity of any forged paper produced by examining the witnesses separately, and subjecting them to a subse-

quent cross-examination, in which case, if false, they will not be able to persevere in one regular, consistent story"; whereas, if no advantage be taken of such particularity in the charge to detect the falsehood thereof, and if no attempt to disprove it, and no defence whatever be made, a presumption justly and reasonably arises in favor of the truth of such charge. That the said Warren Hastings, instead of offering anything in his defence, declared that *he would not suffer Nundcomar to appear before the board as his accuser;* that he attempted to indict his said accuser for a conspiracy, in which he failed; and that the said Rajah Nundcomar was soon after, and while his charge against the said Warren Hastings was depending before the Council, indicted upon an English penal statute, which does not extend even to Scotland,* before the Supreme Court of Judicature, for an offence said to have been committed several years before, and not capital by the laws of India, and was condemned and executed. That the evidence of this man, not having been encountered at the time when it might and ought to have been by the said Warren Hastings, remains justly in force against him, and is not abated by the capital punishment of the said Nundcomar, but rather confirmed by the time and circumstances in which the accuser of the said Warren Hastings suffered death. That one of the offices for which a part of the money above mentioned is stated to have been paid to the said Warren Hastings was given by him to Munny Begum, the widow of the late Mir Jaffier, Nabob of Bengal, whose son, by another woman, holds that title at present. That the said Warren Hastings had been instructed by the

* 2d year of George II.

Court of Directors of the East India Company to appoint "*a minister* to transact the political affairs of the government, and to select for that purpose some person well qualified for the affairs of government, to be the minister and guardian of the Nabob's minority." That for these offices, and for the execution of the several duties belonging to them, the said Warren Hastings selected and appointed the said Munny Begum, a woman evidently unqualified for and incapable of such offices, and restrained from acting in such capacities by her necessary seclusion from the world and retirement in a seraglio. That, a considerable deficiency or embezzlement appearing in this woman's account of the young Nabob's stipend, she voluntarily declared, by a writing under her seal, that she had given fifteen thousand pounds to the said Warren Hastings for an entertainment, — which declaration corresponds with and confirms that part of the charge produced by Rajah Nundcomar to which it relates. That neither this nor any other part of the said charge has been at any time directly denied or disputed by the said Warren Hastings, though made to his face, and though he was repeatedly accused by his colleagues, who were appointed by Parliament at the same time with himself, of peculation of every sort. That, instead of promoting a strict inquiry into his conduct for the clearance of his innocence and honor, he did repeatedly endeavor to elude and stifle all inquiry by attempting to dissolve the meetings of the Council at which such charges were produced, and by other means, and has not since taken any steps to disprove or refute the same. That the said Warren Hastings, so long ago as September, 1775, assured the Court of Directors, "that

it was his fixed determination most fully and liberally to explain every circumstance of his conduct on the points on which he had been injuriously arraigned, and to afford them the clearest conviction of his own integrity, and of the propriety of his motives for declining a present defence of it"; and having never since given to the Court of Directors any explanation whatever, much less the full and liberal explanation he had promised so repeatedly, has thereby abandoned even that late and protracted defence which he himself must have thought necessary to be made at some time or other, and which he would be thought to have deferred to a period more suitable and convenient than that in which the facts were recent, and the impression of these and other charges of the same nature against him was fresh and unimpaired in the minds of men.

That on the 30th of March, 1775, a member of the Council produced and laid before the board a petition from Mir Zein Abul Deen, (formerly farmer of a district, and who had been in creditable stations,) setting forth, that Khân Jehan Khân, then Phousdar of Hoogly, had obtained that office from the said Warren Hastings, with a salary of seventy-two thousand sicca rupees a year, and that the said *Phousdar had given a receipt of bribe to the patron of the city*, meaning Warren Hastings, to pay him annually thirty-six thousand rupees a year, and also to his banian, Cantoo Baboo, four thousand rupees a year, out of the salary above mentioned. That by the thirty-fifth article of the instructions given to the Governor-General and Council, they are directed "immediately to cause the strictest inquiry to be made into all oppressions which might have been committed either

against the natives or Europeans, and into all abuses that might have prevailed in the collection of the revenues, or any part of the civil government of the Presidency, and to communicate to the Directors all information which they might be able to obtain relative thereto, or to any dissipation or embezzlement of the Company's money." That the above petition and instruction having been read in Council, it was moved that the petitioner should be ordered to attend the next day to make good his charge. That the said Warren Hastings declared, "that it appeared to him to be the purpose of the majority to make him the sole object of their personal attacks; that they had taken their line, and might pursue it; that he should have other remarks to make upon this transaction, but, as they would be equally applicable *to many others* which in the course of this business were likely to be brought before the board, he should say no more on the subject"; — and he objected to the motion. That by the preceding declaration the said Warren Hastings did admit that many other charges were likely to be brought against him, and that such charges would be of a similar nature to the first, viz., a corrupt bargaining for the disposal of a great office, since he declared that his remarks on that transac tion would be equally applicable to the rest; and that, by objecting to the motion for the personal attendance of the accuser, he resisted and disobeyed the Company's instructions, and did, as far as depended on his power, endeavor to obstruct and prevent all inquiry into the charge. That in so doing he failed in his duty to the Company, he disobeyed their express orders, and did leave the charge against himself without a reply, and even without a denial,

and with that unavoidable presumption against his innocence which lies against every person accused who not only refuses to plead, but, as far as his vote goes, endeavors to prevent an examination of the charge, and to stifle all inquiry into the truth of it. That, the motion having been nevertheless carried, the said Warren Hastings did, on the day following, declare, "that he could not sit to be confronted with such accusers, nor suffer a judicial inquiry into his conduct at the board of which he was president, and declared the meeting of the board dissolved." That the board continued to sit and examine witnesses, servants of the Phousdar, on oath and written evidence, being letters under the hand and seal of the Phousdar, all directly tending to prove the charge: viz., that, out of the salary of seventy-two thousand rupees a year paid by the Company, the said Phousdar received but thirty-two thousand, and that the remainder was received by the said Warren Hastings and his banian. That the Phousdar, though repeatedly ordered to attend the board, did, under various pretences, decline attending, until the 19th of May, when, the letters stated be his, that is, under his hand and seal, being shown to him, it was proposed by a member of the board that he should be asked whether he had any objection to swear to the truth of such answers as he might make to the questions proposed by the board; that the said Warren Hastings objected to his being put to his oath; that the question was nevertheless put to him, in consequence of a resolution of the board; that he first declined to swear, under pretence *that it was a matter of serious consequence to his character to take an oath*, and, when it was finally left to his option, he

declared, "Mean people might swear, but that his character would not allow him,—that he could not swear, and had rather subject himself to a loss." That the evidence in support of the charge, being on oath, was in this manner left uncontradicted. That it was admitted by the said Warren Hastings, that neither Mussulmen or Hindoos are forbidden by the precepts of their religion to swear; that it is not true, as the said Warren Hastings asserted, that it was repugnant to the *manners* either of Hindoos or Mussulmen; and that, if, under such pretences, the natives were to be exempted from taking an oath, when examined by the Governor and Council, all the inquiries pointed out to them by the Company's instructions might stop or be defeated. That no valid reason was or could be assigned why the said Phousdar should not be examined on oath; that the charge was not against himself; and that, if any questions had been put to him, tending to make him accuse himself, he might have declined to answer them. That, if he could have safely sworn to the innocence of the said Warren Hastings, from whom he received his employment, he was bound in gratitude as well as justice to the said Warren Hastings to have consented to be examined on oath; that, not having done so, and having been supported and abetted in his refusal by the said Warren Hastings himself, whose character and honor were immediately at stake, the whole of the evidence for the truth of the charge remains unanswered, and in full force against the said Warren Hastings, who on this occasion recurred to the declaration he had before made to the Directors, viz., "that he would most fully and liberally explain every circumstance of his conduct,"

but has never since that time given the Directors any explanation whatsoever of his said conduct. And finally, that, when the Court of Directors, in January, 1776, referred the question (concerning the legality of the power assumed and repeatedly exercised by the said Warren Hastings, of dissolving the Council at his pleasure) to the late Charles Sayer, then standing counsel of the East India Company, the said Charles Sayer declared his opinion in favor of the power, but concerning the use and exercise of it in the cases stated did declare his opinion in the following words: "I believe he, Warren Hastings, is the first governor that ever dissolved a council inquiring into his behavior, when he was innocent." Before he could summon three councils, and dissolve them, he had time fully to consider what would be the result of such conduct, *to convince everybody beyond a doubt of his conscious guilt.* — That, by a resolution of a majority of the Council, constituting a lawful act of the Governor-General and Council, the said Khân Jehan Khân was dismissed from the office of Phousdar of Hoogly for a contempt of the authority of the board; that, within a few weeks after the death of the late Colonel Monson, the number of the Council being then even, and all questions being then determined by the Governor-General's casting voice, the said Warren Hastings did move and carry it in Council, that the said Khân Jehan Khân should be restored to his office; and that restoration, not having been preceded, accompanied, or followed by any explanation or defence whatsoever, or even by a denial of the specific and circumstantial charge of collusion with the said Khân Jehan Khân, has confirmed the truth of the said charge.

That, besides the sums charged to have been paid to the said Warren Hastings by the said Nundcomar and Munny Begum and Khân Jehan Khân, and besides the sum of one hundred and ten thousand pounds already mentioned to have been accepted without hesitation by him, as a present on the part of the Nabob of Oude and that of his ministers, the circumstances of which have been particularly reported to the House of Commons, it appears by the confession of the said Warren Hastings, that he has at different times since the promulgation of the act of 1773, received various other sums, contrary to the express prohibition of the said act, and his own declared sense of the evident intent and obligation thereof. — That in the month of June, 1780, the said Warren Hastings made to the Council what he called "a very unusual tender, by offering to exonerate the Company from the expense of a particular measure, and to *take it upon himself;* declaring that he had already deposited two lacs of rupees [or twenty-three thousand pounds] in the hands of the Company's sub-treasurer for that service." That in a subsequent letter, dated the 29th of November, 1780, he informed the Court of Directors, that "this money, by whatever means it came into their possession, *was not his own*"; but he did not then, nor has he at any time since, made known to the Court of Directors from whom or on what account he received that money, as it was his duty to have done in the first instance, and notwithstanding the said Directors signified to him their expectation that he should communicate to them "immediate information of the channel by which this money came into his possession, with a complete illustration of the cause or causes of

so extraordinary an event." But, from evidence examined in England, it has been discovered that this money was received by the said Warren Hastings from Cheyt Sing, the Rajah of Benares, who was soon after dispossessed of all his property and driven from his country and government by the said Warren Hastings. That, notwithstanding the declaration made by the said Warren Hastings, that he had actually deposited the sum above mentioned in the hands of the Company's sub-treasurer for their service, it does not appear that "any entry whatsoever of that or any other payment by the Governor-General was made in the Treasury accounts at or about the time," nor is there any trace in the Company's books of its being actually paid into their treasury. It appears, then, by the confession of the said Warren Hastings, that this money was received by him; but it does not appear that he has converted it to the property and use of the Company.

That in a letter from the said Warren Hastings to the said Court of Directors, dated the 22d of May, 1782, but not dispatched, as it might and ought to have been, at that time, but detained and kept back by the said Warren Hastings till the 16th of December following, he has confessed the receipt of various other sums, amounting (with that which he accepted from the Nabob of Oude) to nearly two hundred thousand pounds, which sums he affirmed had been converted to the Company's property through his means, but without discovering from whom or on what account he received the same. That, instead of converting this money to the Company's property, as he affirmed he had done, it appears that he had lent the greater part of it to the Company upon bonds

bearing interest, which bonds were demanded and received by him, and, for aught that yet appears, have never been given up or cancelled. That for another considerable part of the above-mentioned sum he has taken credit to himself, as for a deposit of his own property, and therefore demandable by him out of the Company's treasury at his discretion. That all sums so lent or deposited are not alienated from the person who lends or deposits the same; consequently, that the declaration made by the said Warren Hastings, that he had converted the whole of these sums to the Company's property, was not true. Nor would such a transfer, if it had really been made, have justified the said Warren Hastings in originally receiving the money, which, being in the first instance contrary to law, could not be rendered legal by any subsequent disposition or application thereof; much less would it have justified the said Warren Hastings in delaying to make a discovery of these transactions to the Court of Directors until he had heard of the inquiries then begun and proceeding in Parliament, in finally making a discovery, such as it is, in terms the most intricate, obscure, and contradictory. That, instead of that full and clear explanation of his conduct which the Court of Directors demanded, and which the said Warren Hastings was bound to give them, he has contented himself with telling the said Directors, that, "if this matter was to be exposed to the view of the public, his reasons for acting as he had done might furnish a variety of conjectures to which it would be of little use to reply; that he either chose to conceal the first receipts from public curiosity by receiving bonds for the amount, or possibly acted without any studied design which his memory could at that dis-

tance of time verify; and that he *could* have concealed them from their eye and that of the public forever." That the discovery, as far as it goes, establishes the guilt of the said Warren Hastings in taking money against law, but does not warrant a conclusion that he has discovered *all* that he may have taken; that, on the contrary, such discovery, not being made in proper time, and when made being imperfect, perplexed, and wholly unsatisfactory, leads to a just and reasonable presumption that other facts of the same nature have been concealed, since those which he has confessed might have been forever, and that this partial confession was either extorted from the said Warren Hastings by the dread of detection, or made with a view of removing suspicion, and preventing any further inquiry into his conduct.

That the said Warren Hastings, in a letter to the Court of Directors dated 21st of February, 1784, has confessed his having *privately received* another sum of money, the amount of which he has not declared, but which, from the application he says he has made of it, could not be less than thirty-four thousand pounds sterling. That he has not informed the Directors from whom he received this money, at what time, nor on what account; but, on the contrary, has attempted to justify the receipt of it, which was illegal, by the application of it, which was unauthorized and unwarrantable, and which, if admitted as a reason for receiving money *privately*, would constitute a precedent of the most dangerous nature to the Company's service. That, in attempting to justify the receipt and application of the said money, he has endeavored to establish principles of conduct in a Governor which tend to subvert all order and regularity in the con-

duct of public business, to encourage and facilitate fraud and corruption in all offices of pecuniary trust, and to defeat all inquiry into the misconduct of any person in whom pecuniary trust is reposed. — That the said Warren Hastings, in his letter above mentioned, has made a declaration to the Court of Directors in the following terms: "Having had occasion to disburse from my own cash many sums, which, though required to enable me to execute the duties of my station, I have hitherto omitted to enter in my public accounts, and my own fortune being unequal to so heavy a charge, I have resolved to reimburse myself in a mode the most suitable to the situation of your affairs, by charging the same in my Durbar accounts of the present year, and crediting them by a sum *privately received*, and appropriated to your service in the same manner with other sums received on account of the Honorable Company, and already carried to their account." That at the time of writing this letter the said Warren Hastings had been in possession of the government of Fort William about twelve years, with a clear salary, or avowed emoluments, at no time less than twenty-five thousand pounds sterling a year, exclusive of which all the principal expenses of his residence were paid for by the Company. That, if the services mentioned by him were required to enable him to execute the duties of his station, he ought not to have omitted to enter them in his public accounts at the times when the expenses were incurred. That, if it was true, as he affirms, that, when he first engaged in these expenses, he had no intention to carry them to the account of the Company, there was no subsequent change in his situation which could justify his departing from that intention. That, if his own

fortune in the year 1784 was unequal to so heavy a charge, the state of his fortune at any earlier period must have been still more unequal to so heavy a charge. That the fact so asserted by the said Warren Hastings leads directly to an inference palpably false and absurd, viz., that, the longer a Governor-General holds that lucrative office, the poorer he must become. That neither would the assertion, if it were true, nor the inference, if it were admitted, justify the conduct avowed by the said Warren Hastings in resolving to reimburse himself out of the Company's property without their consent or knowledge. — That the account transmitted in this letter is styled by himself *an aggregate of a contingent account of twelve years*; that all contingent accounts should be submitted to those who ought to have an official control over them, at annual or other shorter periods, in order that the expense already incurred may be checked and examined, and similar expenses, if disapproved of, may be prohibited in time; that, after a very long period is elapsed, all check and control over such expenses is impracticable, and, if it were practicable in the present instance, would be completely useless, since the said Warren Hastings, without waiting for the consent of the Directors, did *resolve to reimburse himself*. That the conduct of the said Warren Hastings, in withholding these accounts for twelve years together, and then resolving to reimburse himself without the consent of his employers, has been fraudulent in the first instance, and in the second amounts to a denial and mockery of the authority placed over him by law; and that he has thereby set a dangerous example to his successors, and to every man in trust or office under him. — That the mode in which he has

reimbursed himself is a crime of a much higher order, and greatly aggravates whatever was already criminal in the other parts of this transaction. That the said Warren Hastings, in declaring that he should reimburse himself by crediting the Company by *a sum privately received*, has acknowledged himself guilty of an illegal act in receiving money *privately*. That he has suppressed or withheld every particular which could throw any light on a conduct so suspicious in a Governor as the *private* receipt of money. That the general confession of the private receipt of a large sum in gross, in which no circumstance of time, place, occasion, or person, nor even the amount, is specified, tends to cover or protect any act of the same nature (as far as a general confession can protect such acts) which may be detected hereafter, and which in fact may not make part of the gross sum so confessed, and that it tends to perplex and defeat all inquiry into such practices. — That the said Warren Hastings, in stating to the Directors that he has resolved to reimburse himself in *a mode the most suitable to the situation of their affairs*, viz., by receiving money privately against law, has stated a presumption highly injurious to the integrity of the said Directors, viz., that they will not object to, or even inquire into, any extraordinary expenses incurred and charged by their Governors in India, provided such expenses are reimbursed by money privately and illegally received. That he has not explained what that situation of their affairs was or could be to which so dangerous and corrupt a principle was or might be applied. — That no evidence has been produced to prove that it was true, nor any ground of argument stated to show that it might be credible, that any na-

tive of India had voluntarily and gratuitously given money privately to the said Warren Hastings, that is, without some prospect of a benefit in return, or some dread of his resentment, if he refused. That it is not a thing to be believed, that any native would give large sums privately to a Governor, which he refused to give or lend publicly to government, unless it were to derive some adequate secret advantage from the favor, or to avoid some mischief from the enmity of such Governor. — That the late confessions made by the said Warren Hastings of money received against law are no proof that he did not originally intend to appropriate the same to his own use, such confessions having been made at a suspicious moment, when, and not before, he was apprised of the inquiries commenced in the House of Commons, and when a dread of the consequence of those inquiries might act upon his mind. That such confessions, from the obscure, intricate, and contradictory manner in which they are made, imply guilt in the said Warren Hastings, as far as they go; that they do not furnish any color of reason to conclude that he has confessed all the money which he may have corruptly received; but that, on the contrary, they warrant a just and reasonable presumption, that, in discovering some part of the bribes he had received, he hoped to lull suspicion, and thereby conceal and secure the rest.

That the Court of Directors, when the former accounts of these transactions came before them, did show an evident disposition not to censure the said Warren Hastings, but to give the most favorable construction to his conduct; that, nevertheless, they found themselves obliged "to confess that the statement of those transactions appeared to them in many

parts *so unintelligible*, that they felt themselves under the necessity of calling on the Governor-General for an explanation, agreeably to his promise voluntarily made to them."

That their letter, containing this requisition, was received in Bengal in the month of August, 1784, and that the said Warren Hastings did not embark for England until the 2d of February, 1785, but made no reply to that letter before his departure, owing, as he has since said, *to a variety of other more important occupations*. That, under pretence of such occupations, he neglected to transmit to the Court of Directors a copy of a paper which, he says, contained the *only* account he ever kept of the transaction. That such a paper, or a copy of it, might have been transmitted without interrupting other important occupations, if any could be more important than that of giving a clear and satisfactory answer to the requisition of the Directors. That since his arrival in England he has written a letter to the chairman of that court, professedly in answer to their letter above mentioned, but in fact giving no explanation or satisfaction whatsoever on the points which they had declared to be unintelligible. That the terms of his letter are ambiguous and obscure, such as a guilty man might have recourse to in order to cover his guilt, but such as no innocent man, from whom nothing was required but to clear his innocence by giving plain answers to plain questions, could possibly have made use of. That in his letter of the 11th of July, 1785, he says, "that he has been kindly apprised that the information required as above *was yet expected from him*: that the submission which his respect would have enjoined him to pay to the

command imposed on him *was lost to his recollection*, perhaps from the stronger impression which the first and distant perusal of it had left on his mind that it was rather intended as a reprehension for something which had given offence in his report of the original transaction than as expressive of any want of a further elucidation of it." *

That the said Warren Hastings, in affecting to doubt whether the information expressly required of him by his employers was expected or not, has endeavored to justify a criminal delay and evasion in giving it. That, considering the importance of the subject, and the recent date of the command, it is not possible *that it could be lost to his recollection;* much less is it possible that he could have understood the specific demand of an answer to specific questions to be intended only as a reprehension for a former offence, viz., the offence of withholding from the Directors that very explanation which he ought to have given in the first instance. That the said Warren Hastings, in his answer to the said questions, cautiously avoids affirming or denying anything in clear, positive terms, and professes to recollect nothing with absolute certainty. That he has not, even now, informed the Directors of the name of any one person from whom any part of the money in question was received, nor what was the motive of any one person for giving the same. That he has, indeed, declared, that his motive for lending to the Company, or depositing in their treasury in his own name, money which he has in other places declared to be their property, was to avoid ostentation, and that *lending* the

* See his letter of the 11th of July, 1785, at the end of the Charges.

money was *the least liable to reflection;* yet, when he has stated these and other conjectural motives for his own conduct, he declares *he will not affirm, though he is firmly persuaded, that those were his sentiments on the occasion.* That of one thing only the said Warren Hastings declares he is *certain*, viz., "that it was his design originally to have *concealed* the receipt of all the sums, except the second, even from the knowledge of the Court of Directors, but that, when fortune threw a sum in his way of a magnitude *which could not be concealed*, and the peculiar delicacy of his situation at the time in which he received it made him more circumspect of appearances, he *chose* to apprise his employers of it." That the said Warren Hastings informs the Directors, that he had indorsed the bonds taken by him for money belonging to the Company, and lent by him to the Company, *in order to guard against their becoming a claim on the Company, as part of his estate, in the event of his death;* but he has not affirmed, nor does it anywhere appear, that he has surrendered the said bonds, as he ought to have done. That the said Warren Hastings, in affirming that he had not time to answer the questions put to him by the Directors, while he was in Bengal, — in not bringing with him to England the documents necessary to enable him to answer those questions, or in pretending that he has not brought them, — in referring the Directors back again to Bengal for those documents, and for any further information on a subject on which he has given them no information, — and particularly in referring them back to a person in Bengal for a paper which he says contained the *only* account he ever kept of the transaction, while he himself professes to doubt whether

that paper *be still in being*, whether *it be in the hands* of that person, or whether that person *can recollect anything distinctly concerning it*, — has been guilty of gross evasions, and of palpable prevarication and deceit, as well as of contumacy and disobedience to the lawful orders of the Court of Directors, and thereby confirmed all the former evidence of his having constantly used the influence of his station for the most scandalous, illegal, and corrupt purposes.

IX. — RESIGNATION OF THE OFFICE OF GOVERNOR-GENERAL.

THAT Warren Hastings having by his agent, Lauchlan Macleane, Esquire, on the 10th day of October, in the year 1776, "signified to the Court of Directors his desire to resign his office of Governor-General of Bengal, and requested their nomination of a successor to the vacancy which would be thereby occasioned in the Supreme Council," the Court of Directors did thereupon desire the said Lauchlan Macleane "to inform them of the authority under which he acted in a point of such very great importance"; and the said Lauchlan Macleane "signifying thereupon his readiness to give the court every possible satisfaction on that subject, but the powers with which he was intrusted by the papers in his custody being mixed with other matters of a nature extremely confidential, he would submit the same to the inspection of any three of the members of the court," the said Court of Directors empowered the Chairman, Deputy Chairman, and Richard Becher, Esquire, to inspect the authorities, powers, and directions with

which Mr. Macleane was furnished by Mr. Hastings to make the propositions contained in his letter of the 10th October, 1776, and to report their opinion thereon. And the said committee did accordingly, on the 23d of the said month, report, "that, having conferred with Mr. Macleane on the subject of his letter presented to the court the 11th instant, they found, that, from the purport of Mr. Hastings's instructions, contained in a paper in his own handwriting given to Mr. Macleane, and produced by him to them, Mr. Hastings declared he would not continue in the government of Bengal, unless certain conditions therein specified could be obtained, of which they saw no probability; and Mr. George Vansittart had declared to them, that he was present when these instructions were given to Mr. Macleane, and when Mr. Hastings empowered Mr. Macleane to declare his resignation to the said court; that Mr. Stewart had likewise confirmed to them, that Mr. Hastings declared to him, that he had given directions to the above purpose by Mr. Macleane."

And the Court of Directors, having received from the said report due satisfaction respecting the authority vested in the said Lauchlan Macleane to propose the said resignation of the office of Governor-General of Bengal, did unanimously resolve to accept the same, and did also, under powers vested in the said court by the act of the 13th year of his present Majesty, "nominate and appoint Edward Wheler, Esquire, to succeed to the office in the Council of Fort William in Bengal which will become vacant by the said resignation, if such nomination shall be approved by his Majesty": which nomination and appointment was afterwards in due form approved and confirmed by his Majesty.

That the Court of Directors did, by a postscript to their general letter, dated 25th October, 1776, acquaint the Governor-General and Council at Calcutta of their acceptance of the said resignation, of their appointment of Edward Wheler, Esquire, to fill the said vacancy, and of his Majesty's approbation of the said appointment, together with the grounds of their said proceedings; and did transmit to the said Governor-General and Council copies of the said instruments of appointment and confirmation.

That the said dispatches from the Court of Directors were received at Calcutta, and were read in Council on the 19th day of June, in the year 1777; and that Warren Hastings, Esquire, having taken no steps to yield the government to his successor, General Clavering, and having observed a profound silence on the subject of the said dispatches, he, the said General Clavering, did, on the next day, being the 20th of June, by a letter addressed to the said Warren Hastings, require him to surrender the keys of Fort William, and of the Company's treasuries; but the said Warren Hastings did positively refuse to comply with the said requisition, "denying that his office was vacated, and declaring his resolution to assert and maintain his authority by every legal means."

That the said General Clavering, conceiving that the office of Governor-General was vacated by the arrival of the said dispatches, which acquainted the Council-General of the resignation of the said Warren Hastings and the appointment of the said Edward Wheler, Esquire, and that he, the said General Clavering, had in consequence thereof legally succeeded, under the provisions of the act of the 13th year of his

present Majesty's reign, to the said office of Governor-General, become vacant in the manner aforesaid, did, in virtue thereof, issue in his own name summonses to Richard Barwell, Esquire, and Philip Francis, Esquire, members of the Council, to attend the same, and in the presence of the said Philip Francis, Esquire, who obeyed the said summons, did take the oaths as Governor-General, and did sit and preside in Council as Governor-General, and prepared several acts and resolutions in the said capacity of Governor-General, and did, amongst other things, prepare a proclamation to be made of his said succession to the government, and of its commencing from the date of the said proclamation, but did not carry any of the acts or resolutions so prepared into execution.

The said Warren Hastings did, notwithstanding thereof, and in pursuance of his resolution to assert and maintain his authority, illegally and unjustifiably summon the Council to meet in another department, and did sit and preside therein, apart from the said General Clavering and his Council, and, in conjunction with Richard Barwell, Esquire, who concurred therein, issued sundry orders and did sundry acts of government belonging to the office of Governor-General, and, amongst others, did order several letters to be written in the name of the Governor-General and Council, and did subscribe the same, to the commandant of the garrison of Fort William, and to the commanding officer at Barrackpore, and to the commanding officers at the other stations, and also to the provincial councils and collectors in the provinces, enjoining them severally "to obey no orders excepting such as should be signed by the said Warren Hastings, or a majority of his Council."

That the said Warren Hastings did, by the said proceedings, which were contrary both to law and to good faith, constitute a double government, thereby destroying and annihilating all government whatever; and, by his said orders to the military officers, did prepare for open resistance by arms, exposing thereby the settlement, and all the inhabitants, subjects of or dependent on the British government, whether native or European, not only to political distractions, but to the horrors of civil war; and did, by exposing the divisions and weakness of the supreme government, and thereby loosening the obedience of the provinces, shake the whole foundation of British authority, and imminently endanger the existence of the British nation in India.

That the said evils were averted only by the moderation of the said General Clavering and Philip Francis, Esquire, in consenting to a reference, and submitting to the decision of the judges of the Supreme Court of Judicature, although they entertained no doubts themselves on the legality of their proceedings and the validity of General Clavering's instant right to the chair, and although they were not in any way bound by law to consult the said judges, who had no legal or judicial authority therein in virtue of their offices or as a court of justice, but were consulted, and interposed their advice, only as individuals, by the voluntary reference of the parties in the said dispute. And the said Warren Hastings, by his declaration, entered in Minutes of Council, "that it was his determination to abide by the opinion of the judges," and by the measures he had previously taken as aforesaid to enforce the same by arms, did risk all the dangerous consequences above mentioned: which must have

taken place, if the said General Clavering and Philip Francis, Esquire, had not been more tender of the public interests, and less tenacious of their own rights, and had persisted in their claim, as they were by law entitled to do, the extra-judicial interposition of the judges notwithstanding; and from which claim they receded only from their desire to preserve the peace of the settlement, and to prevent the mischiefs which the illegal resistance of the said Warren Hastings would otherwise infallibly have occasioned.

That, after the said judges had delivered their opinion, "that the place and office of Governor-General of this Presidency had not yet been vacated by Warren Hastings, and that the actual assumption of the government by the member of the Council next in succession to Mr. Hastings, in consequence of any deduction which could be made from the papers communicated to them, would be absolutely illegal," and after the said General Clavering and Philip Francis, Esquire, had signified to the said Warren Hastings, by a letter dated the 21st of June, "their intention to acquiesce in the said opinion of the judges," and when the differences in the Supreme Council were by these means composed, and the calamities consequent thereon were avoided, the said Warren Hastings and Richard Barwell, Esquires, did once more endanger the public peace and security by other illegal, unwarrantable, and unprovoked acts of violence: having omitted to summon either the said General Clavering or the said Philip Francis, Esquire, to Council; and having, in a Council held thus privately and clandestinely and contrary to law, on the 22d day of June, come to the following resolutions, viz.

"Resolved, That, by the said acts, orders, and declarations of Lieutenant-General John Clavering, recited in the foregoing papers," (meaning the proceedings of General Clavering in his separate Council on the 20th of June,) "he has actually usurped and assumed and taken possession of the place and office of Governor-General of the Presidency of Fort William in Bengal, granted by the act of the 13th of his present Majesty to Warren Hastings, Esquire.

"Resolved, That Lieutenant-General John Clavering has thereby relinquished, resigned, surrendered, and vacated the office of Senior Counsellor of Fort William in Bengal.

"Resolved, That Lieutenant-General John Clavering has thereby relinquished, resigned, surrendered, and vacated his place of Commander-in-Chief of the Company's forces in India.

"Resolved, That Richard Barwell, Esquire, by virtue of the said act of Parliament, and by the death of the Honorable George Monson, Esquire, is promoted to the office of Senior Counsellor of the Presidency of Fort William in Bengal, in consequence of the said relinquishment, resignation, surrender, and vacation of General Clavering.

"Resolved, That the office of Commander-in-Chief of the Company's forces in India, by the relinquishment, resignation, surrender, and vacation of General Clavering, and by the death of the Honorable George Monson, Esquire, does no longer exist.

"Resolved, That, for the preservation of the legality of our proceedings, Lieutenant-General John Clavering be not in future summoned or admitted as a member of the Governor-General and Council."

And the said Warren Hastings and Richard Bar-

well, Esquire, did again sit in Council on the next day, being the 23d of June, without summoning either General Clavering or Philip Francis, Esquire, and did come to several other resolutions, and make several orders, contrary to law or justice, and inconsistent with the tranquillity and the security of the settlement: that is to say, they ordered their secretary "to notify to General Clavering that the board had declared his offices of Senior Counsellor and Commander-in-Chief to be vacant, and to furnish him with a copy of these proceedings, containing the grounds of the board for the aforesaid declaration."

And they ordered extracts of the said proceedings "to be issued in general orders, with letters to all the provincial councils and military stations, directing them to publish the same in general orders"; and they resolved, "that all military returns be made to the Governor-General and Council in their military department, until a commander-in-chief shall be appointed by the Company."

That on the day following, that is to say, on the 24th of June, the said Warren Hastings did again omit to summon General Clavering to Council, and did again, together with Richard Barwell, Esquire, who concurred therein, adhere to and confirm the said illegal resolutions come to on the two former days, declaring "that they could not be retracted but by the present authority of the law or by future orders from home," and aggravating the guilt of the said unjustifiable acts by declaring, as the said Warren Hastings did, "that they were not the precipitate effects of an instant and passionate impulse, but the fruits of long and most temperate deliberations, of inevitable necessity, of the strictest sense of public

duty, and of a conviction equal in its impression on his mind to absolute certainty."

That the said Warren Hastings was the less excusable in this obstinate adherence to his former unjust proceedings, as the said declarations were made in answer to a motion made by Philip Francis, Esquire, for the reversal of the said proceedings, and to a minute introducing the said motion, in which Mr. Francis set forth in a clear and forcible manner, and in terms with which the Court of Directors have since declared their entire concurrence, both the extreme danger and the illegality and invalidity of the said proceedings of Warren Hastings and Richard Barwell, Esquire, concluding the said minute by the following conciliatory declaration: "And that this salutary motion may not be impeded by any idea or suspicion that General Clavering may do any act inconsistent with the acquiescence which both he and I have avowed in the decision of the judges, I will undertake to answer for him in this respect, or that, if he should depart from the true spirit and meaning of that acquiescence, I will not be a party with him in such proceedings."

That the said Warren Hastings could not plead ignorance of the law in excuse for the said illegal acts, as it appears from the proceedings of the four preceding days that he was well acquainted with the tenure by which the members of the Council held their offices under the act of the 13th of his present Majesty, and had stated the same as a ground for retaining his own office, contrary to an express declaration of the Court of Directors and an instrument under the sign-manual of his Majesty; and the judges of the Supreme Court, in their reasons for their decision in his favor,

had stated the provisions in the said act,* so far as they related to the matter in dispute, from which it appeared that there were but four grounds on which the office of any member of the Council could be vacated, — namely, death, removal, resignation, or promotion. And as the act confined the power of removal to "his Majesty, his heirs and successors, upon representation made by the Court of Directors of the said United Company for the time being," and conferred no such power on the Governor-General, or a majority of the Council, to remove, on any ground or for any cause whatever, one of their colleagues, — so, granting the claim of General Clavering to the chair, and his acts done in furtherance thereof, to have been illegal, and criminal in whatever degree, yet it did not furnish to the rest of the Council any ground to remove him from his office of Counsellor under the provisions of the said act; and there could therefore remain only his *resignation* or *promotion*, as a possible means of vacating his said office. But with regard to the promotion of General Clavering to the office of Governor-General, although he claimed it himself, yet, as Mr. Hastings did not admit it, and as in fact it was even receded from by General Clavering, it could not be considered, at least by Mr. Hastings, as a valid ground for vacating his office of Senior Counsellor, since the act requires for that purpose, not a rejected claim, but an actual and effectual promotion; and General Clavering's office of Counsellor could no more be vacated by such a naked claim, unsupported and disallowed, than the seat of a member of the House of Commons could be vacated, and a new writ issued to supply the vacancy, by his claim

* 13 Geo. III. c. 63, § 10.

to the office of Steward of the Chiltern Hundreds, when his Majesty has refused to appoint him to the said office. And with regard to resignation, although the said Warren Hastings, as a color to his illegal resolutions, had affectedly introduced the word "resigned" amongst those of "relinquished, surrendered, and vacated," yet he well knew that General Clavering had made no offer nor declaration of his resignation of his offices of Senior Counsellor and Commander-in-Chief, and that he did not claim the office of Governor-General on the ground of any such resignation made by himself, but on the ground of a resignation made by the said Warren Hastings, which resignation the said Warren Hastings did not admit; and the use of the term *resigned* on that occasion was therefore a manifest and wilful misconstruction and misapplication of the words of the act of his present Majesty. And such misinterpretation and false extension of the term of resignation was the more indecent in the said Warren Hastings, as he was at the same moment disavowing and refusing to give effect to his own clear and express resignation, according to the true intent and meaning of the word as used in the said act, made by his agent, duly authorized and instructed by himself so to do, to an authority competent to receive and accept the same.

That, although the said Warren Hastings did afterwards recede from the said illegal measures, in compliance with the opinion and advice of the judges again interposed, and did thereby avoid the guilt of such further acts and the blame of such further evils as must have been consequent on a persistence therein, yet he was nevertheless still guilty of the illegal acts above described; and the same are great crimes and misdemeanors.

That, although the judges did decide that the office of Governor-General, held by the said Warren Hastings, was not *ipso facto* and *instanter* vacated by the arrival of the said dispatches and documents transmitted by the Court of Directors, and did consider the said consequences of the resignation as awaiting some future act or event for its complete and effectual operation, yet the said judges did not declare any opinion on the ultimate invalidity of the said acts of Lauchlan Macleane, Esquire, as not being binding on his principal, Warren Hastings, Esquire; nor did they declare any opinion that the obligation of the said resignation was not from the beginning conclusive and effectual, although its operation was, from the necessity of the case, on account of the distance between England and India, to take place only in future, — or that the said resignation made by Lauchlan Macleane, Esquire, was only an offer or proposal of a resignation to be made at some future and indefinite period, or a mere intimation of the desire of Warren Hastings, Esquire, to resign at some future and indefinite period, and that the said resignation, notwithstanding the acceptance thereof by the Court of Directors, and the regular appointment and confirmation of a successor, was still to remain optional in the said Warren Hastings, to be ratified or departed from at his future choice or pleasure; nor did the said judges pronounce, nor do any of their reasonings which accompanied their decision tend to establish it as their opinion, that even the time for ratifying and completing the said transaction was to be at the sole discretion of the said Warren Hastings; but they only delivered their opinion as aforesaid, that his said office "has not *yet* been vacated, and [therefore] that

the *actual* assumption of the government by the member of the Council next in succession was [in the actual circumstances, and *rebus sic stantibus*] illegal."

That the said Warren Hastings does nowhere himself contend that the said resignation was not absolute, but optional, according to the true meaning and understanding of the parties in England, and so far as the acts of Lauchlan Macleane, Esquire, and the Court of Directors, were binding on him; but, on the contrary, he grounds his refusal to complete the same, not on any interpretation of the words in which the said resignation, and the other instruments aforesaid, were conceived, but rather on a disavowal (not direct, indeed, but implied) of his said agent, and of the powers under which the said agent had claimed to act in his behalf. Neither did the said Warren Hastings ground his said refusal on any objection to the particular day or period or circumstances in which the requisition of General Clavering was made, nor accompany the said refusal with any qualification in that respect, or with any intimation that he would at any future or more convenient season comply with the same, — although such an intimation might probably have induced General Clavering to waive an instant and immediate claim to the chair, and might therefore have prevented the distractions which happened, and the greater evils which impended, in consequence of the said claim of General Clavering, and the said refusal of Warren Hastings, Esquire; but the said Warren Hastings did, on the contrary, express his said refusal in such general and unqualified terms as intimated an intention to resist absolutely and altogether, both then and at any future time, the said requisition of General Clavering. And the sub-

sequent proceedings of the said Warren Hastings do all concur in proving that such was his intention; for he did afterwards, in conformity to the advice of the judges, move a resolution in Council, "that all parties be placed in the same situation in which they stood before the receipt of the last advices from England, reserving and submitting to a decision in England the respective claims that each party may conceive they have a right to make, but not acting upon those claims till such decision shall arrive in Bengal": thereby clearly and explicitly declaring that it was not his intention to surrender the government until such decision should arrive in Bengal, which could not be expected in less time than a year and a half after the date of the said resolution; and thereby clearly and explicitly declaring that he did not consider his resignation as binding for the present. And the said intention was manifested, if possible, still more directly and expressly in a letter written by the said Warren Hastings to the Court of Directors, dated the 15th of August, 1777, being almost two months after the receipt of the said dispatches, in which the said Warren Hastings declares that "he did not hold himself bound by the notification made by Mr. Macleane, nor by any of the acts consequent of it."

That, such appearing to have been the intention of the said Warren Hastings, General Clavering was justified in immediately assuming the government, without waiting for any future act of the said Warren Hastings for the actual surrender of the said government, none such being likely to happen; and Philip Francis, Esquire, was justified in supporting General Clavering in the same on the soundest principles of justice, and on a maxim received in courts of equity,

namely, that no one shall avail himself of his own wrong, — and that, if any one refuse or neglect to perform that which he is bound to do, the rights of others shall not be prejudiced thereby, but such acts shall be deemed and reputed to have been actually performed, and all the consequences shall be enforced which would have followed from such actual performance. And therefore the resolutions moved and voted in Council by the said Warren Hastings, declaring the offices of General Clavering to be vacant, were not only illegal, inasmuch as the said Warren Hastings had no authority to warrant such a declaration, even on the supposition of the acts of General Clavering being contrary to law, but the said resolutions were further highly culpable and criminal, inasmuch as the said acts done by General Clavering, which were made the pretence of that proceeding, were strictly regular and legal.

That the refusal of the said Warren Hastings to ratify the said resignation, and his disavowal of the said Lauchlan Macleane, his agent, is not justified by anything contained in his said letter to the Court of Directors, dated on the 15th of August, 1777, — the said Warren Hastings nowhere directly and positively asserting that the said Lauchlan Macleane was not his agent, and had not both full and general powers, and even particular instructions for this very act, although the said Warren Hastings uses many indirect and circuitous, but insufficient and inapplicable, insinuations to that effect. And the said letter does, on the contrary, contain a clear and express avowal that the said Lauchlan Macleane was his confidential agent, and that in that capacity he acted throughout, and particularly in this special matter,

with zeal and fidelity. And the said letter does further admit in effect the instructions produced by the said Lauchlan Macleane, Esquire, confirmed by Mr. Vansittart and Mr. Stewart, and relied on and confided in by the Court of Directors, by which the said Lauchlan Macleane appeared to be specially empowered to declare the said resignation, the words of the said instruction being as follows: "That he [Mr. Hastings] *will not continue in the government of Bengal*, unless certain conditions therein specified can be obtained"; and the words of the said letter being as follows: "What I myself know with certainty, or can recollect at this distance of time, concerning the powers and instructions which were given to Messieurs Macleane and Graham, when they undertook to be my agents in England, I will circumstantially relate. I am in possession of two papers which were presented to those gentlemen at the time of their departure from Bengal, one of which comprises four short propositions *which I required as the conditions of my being confirmed in this government.*" And although the said Warren Hastings does here artfully somewhat change the words of his written instructions (and which having in his possession he might as easily have given verbatim) to other words which may appear less explicit, yet they are in fact capable of only the same meaning: for, as, at the time of giving the said instructions to his agents, he was in full possession of his office, he could want no confirmation therein except *his own;* and, in such circumstances, "to require certain things, *as the conditions of his being confirmed in his government,*" is tantamount to a declaration "*that he will not continue in his government, unless those conditions can be obtained.*" And

the said attempt at prevarication can serve its author the less, as either both sentences have one and the same meaning, or, if their meaning be different, the original instructions in his own handwriting, or, in other words, the thing itself, must be preferred as evidence of its contents to a loose statement of its purport, founded, perhaps, on a loose recollection of it at a great distance of time.

That the said refusal of Warren Hastings, Esquire, was a breach of faith with the Court of Directors and his Majesty's ministers in England; as the said resignation was not merely a voluntary offer without any consideration, and therefore subject to be recalled or retracted at the pleasure of the said Warren Hastings, but ought rather to be considered as having been the result of a negotiation carried on between Mr. Macleane for the benefit of Warren Hastings, Esquire, on the one hand, and by the Court of Directors for the interests of the Company on the other: which view of the transaction will appear the more probable, when it is considered that at the time of the said resignation a strict inquiry had been carrying on by the Court of Directors into the conduct of the said Warren Hastings, and the solicitor and counsel to the Company, and other eminent counsel, had given it as their opinions, on cases stated to them, that there were grounds for suing the said Warren Hastings in the courts of law and equity, and that the Company would be entitled to recover in the said suits against Warren Hastings, Esquire, several very large sums of money taken by him in his office of Governor-General, contrary to law, and in breach of his covenants, and of his duty to the Company and the public; and the Court of Directors had also come to

various severe resolutions of censure against the said Warren Hastings, and amongst others to a resolution to recall the said Warren Hastings, and remove him from his office of Governor-General, to answer for sundry great crimes and delinquencies by him committed in his said office. And on these accounts it appears probable that the said resignation was tendered and accepted as a consideration for some beneficial concessions made in consequence thereof to the said Warren Hastings in his said dangerous and desperate condition.

And the said refusal was also an act of great disrespect to the Court of Directors and to his Majesty, and, by rendering abortive their said measures, solemnly and deliberately taken, and ratified and confirmed by his Majesty, tended to bring the authority of the Court of Directors and of his Majesty into contempt.

And the said refusal was an injury to General Clavering.

And was also, or might have been, a great injury to Edward Wheler, Esquire.

And was an act of signal treachery to Lauchlan Macleane, Esquire, as also to Mr. Vansittart and Mr. Stewart, whose honors and veracity were thereby brought into question, doubt, and suspicion.

And the said refusal was prejudicial to the affairs of the servants of the Company in India, by shaking the confidence to be placed in their agents by those persons with whom it might be for their interests to negotiate on any matter of importance, and by thus subjecting the communication of persons abroad with those at home to difficulties not known before.

X. — SURGEON-GENERAL'S CONTRACT.

THAT the said Warren Hastings, in the year 1777, did grant to the Surgeon-General a contract for three years, for defraying every kind of hospital and medicinal expense, — not only in breach of the general orders of the Court of Directors with respect to the duration of contracts, but in direct opposition to a particular order of the Court of Directors, of the 30th of March, 1774, when they directed "that the Surgeon should not be permitted to enjoy any emolument arising from his being concerned in dieting the patients, and that the occupations of surgeon and contractor should be forthwith separated." That the said contract was in itself highly improper, and inconsistent with the good of the service; as it afforded the greatest temptation to abuse, and established a pecuniary interest in the Surgeon-General, contrary to the duties of his station and profession.

XI. — CONTRACTS FOR POOLBUNDY REPAIRS.

THAT the Governor-General and Council at Fort William did, on the motion and recommendation of Warren Hastings, Esquire, enter into a contract with Archibald Frazer, Esquire, on the 16th of April, 1778, for the repairs of the pools and banks in the province of Burdwan, for two years, at the rate of 120,000 sicca rupees for the first year, and 80,000 rupees for the second year.

That on the 19th of December, 1778, the said Warren Hastings did further persuade the Supreme Council to prolong the term of the above contract with

Archibald Frazer for the space of three years more on the same conditions, namely, the payment of 80,000 sicca rupees for each year: to which was added a permission to Mr. Frazer to make *dobunds*, or special repairs, whenever he should judge them necessary, at the charge of government.

That the said contracts, both in the manner of their acceptance by the Supreme Council, without having previously advertised for proposals, and in the extent of their duration, were made in direct violation of the special orders of the Court of Directors.

That, so far from any advantage having been obtained for the Company in the terms of these contracts, in consideration of the length of time for which they were to continue, the expense of government upon this article was increased by these engagements to a very great amount.

That it appears that this contract had been held for some years before by the Rajah of Burdwan at the rate of 25,000 rupees per annum.

That the superintendent of poolbundy repairs, after an accurate and diligent survey of the bunds and pools, and the Provincial Council of Burdwan, upon the best information they could procure, had delivered it as their opinion to the Governor-General and Council, before the said agreement was entered into, that, after the heavy expense stated in Mr. Kinlock's estimate, viz., 119,405 sicca rupees, if disbursed as they recommended, the charge in future seasons would be greatly reduced, *and, after one thorough and effectual repair, they conceived a small annual expense would be sufficient to keep the bunds up and prevent their going to decay.*

That, whatever extraordinary and unusual damages

the pools and bunds might have sustained, either from the neglect of the Rajah's officers, or from the violence of the then late rains, and the torrents thereby occasioned, to justify the expense of the first year, yet, as they were all considered and included in the estimate for that year, there could be no pretence for allowing and continuing so large and burdensome a payment as 80,000 rupees per annum for the four succeeding years.

That the said Warren Hastings did, in his minutes of the 13th of February, 1778, himself support that opinion, in the comparison to be made between Mr. Thomson's proposals, of undertaking the same service for 60,000 rupees a year for nine years, and the terms of Mr. Frazer's contracts: preferring the latter, because these were "to effect a complete repair, which could hardly be concluded in one season, and the subsequent expense would be but trifling."

Notwithstanding which, the said Warren Hastings urged and prevailed upon the Council to allow in the first year the full amount proposed by Mr. Kinlock in his estimate of the necessary repairs, and did burden the Company with what he must have deemed to be, for the greater part, an unnecessary expense of 80,000 rupees per annum for four years.

That the permission granted to Mr. Frazer to make dobunds, or new and additional embankments in aid of the old ones, whenever he should judge them necessary, at the charge of government, (the said charge to be verified by the oath of the said Frazer, without any voucher,) was a power very much to be suspected, and very improper to be intrusted to a contractor who had already covenanted to keep the old pools in perfect repair, and to construct new ones

wherever the old pools had been broken down and washed away, or where the course of the rivers might have rendered new ones necessary, in consideration of the great sums stipulated to be paid to him by the government.

That the grant of the foregoing contracts, and the permission afterwards annexed to the second of the said grants, become much more reprehensible from a consideration of the circumstances of the person to whom such a grant was made.

That the due performance of the service required local knowledge and experience, which the said Archibald Frazer, being an officer in the Supreme Court of Justice, could not have possessed.

XII.—CONTRACTS FOR OPIUM.

THAT it appears that the opium produced in Bengal and Bahar is a considerable and lucrative article in the export trade of those provinces; that the whole produce has been for many years monopolized either by individuals or by the government; that the Court of Directors of the East India Company, in consideration of the hardship imposed on the native owners and cultivators of the lands, who were deprived of their natural right of dealing with many competitors, and compelled to sell the produce of their labor to a single monopolist, did authorize the Governor-General and Council to give up that commodity as an article of commerce.

That, while the said commodity continued to be a monopoly for the benefit of government, and managed by a contractor, the contracts for providing it were

subject to the Company's fundamental regulation, namely, to be put up to auction, and disposed of to the best bidder; and that the Company particularly ordered that the commodity, when provided, should be consigned to the Board of Trade, who were directed to dispose thereof by public auction.

That in May, 1777, the said Warren Hastings granted to John Mackenzie a contract for the provision of opium, to continue three years, and without advertising for proposals. That this transaction was condemned by the Court of Directors, notwithstanding a clause had been inserted in that contract by which it was left open to the Court of Directors to annul the same at the expiration of the first or second year.

That, about the end of the year 1780, the said Warren Hastings, in contradiction to the order above mentioned, did take away the sale of the opium from the Board of Trade, though he disclaimed, at the same time, *any intention of implying a censure on their management.*

That in March, 1781, the said Warren Hastings did grant to Stephen Sulivan, son of Lawrence Sulivan, Chairman of the Court of Directors of the East India Company, a contract for the provision of opium, without advertising for proposals, and without even receiving any written proposals from him, the said Sulivan; that he granted this contract for four years, and at the request of the said Sulivan did omit that clause which was inserted in the preceding contract, and by which it was rendered liable to be determined by orders from the Company: the said Warren Hastings declaring, contrary to truth, that such clause was now unnecessary, as the Directors *had approved* the contract.

That the said Sulivan had been but a few months in Bengal when the above contract was given to him; that he was a stranger to the country, and to all the local commerce thereof, and therefore unqualified for the management of such a concern; and that the said Sulivan, instead of executing the contract himself, did, shortly after obtaining the same, assign it over to John Benn and others, and in consideration of such assignment did receive from the said Benn a great sum of money.

That from the preceding facts, as well as from sundry other circumstances of restrictions taken off (particularly by abolishing the office of inspector into the quality of the opium) and of beneficial clauses introduced, it appears that the said Warren Hastings gave this contract to the said Stephen Sulivan in contradiction to the orders of the Court of Directors, and without any regard to the interests of the India Company, for the sole purpose of creating an instant fortune for the said Sulivan at the expense of the India Company, without any claim of service or pretence of merit on his part, and without any apparent motive whatever, except that of securing or rewarding the attachment and support of his father, Lawrence Sulivan, a person of great authority and influence in the direction of the Company's affairs, and notoriously attached to and connected with the said Warren Hastings.

That the said Stephen Sulivan neither possessed nor pretended to possess any skill in the business of his contract; that he exerted no industry, nor showed or could show any exactness, in the performance of it, since he immediately sold the contract for a sum of money to another person, (for the sole purpose of

which sale it must be presumed the same was given,) by which person another profit was to be made; and by that person the same was again sold to a third, by whom a third profit was to be made.

That the said Warren Hastings, at the very time when he engaged the Company in a contract for engrossing the whole of the opium produced in Bengal and Bahar in the ensuing four years on terms of such exorbitant profit to the contractor, affirmed, that "there was little prospect of selling the opium in Bengal at a reasonable price, and that it was but natural to suppose that the price of opium *would fall, from the demand being lessened*"; that in a letter dated the 5th of May, 1781, he informed the Directors, "that, owing to the indifferent state of the markets last season to the Eastward, and the very enhanced rates of insurance which the war had occasioned, they had not been able to dispose of the opium of the present year to so great an advantage as they expected, and that more than one half of it remained still in their warehouses." That the said Warren Hastings was guilty of a manifest breach of trust to his constituents and his employers in monopolizing, for their pretended use, an article of commerce for which he declared *no purchasers had offered, and that there was little prospect of any offering, and the price of which*, he said, *it was but natural to suppose would fall.*

That the said Warren Hastings, having, by his own act, loaded the Company with a commodity for which, either in the ordinary and regular course of public auction, or even by private contract, there was, as he affirmed, no sale, did, under pretence of finding a market for the same, engage the Company in an enterprise of great and certain expense, subject to

a manifest risk, and full of disgrace to the East India Company, not only in their political character, as a great sovereign power in India, but in their commercial character, as an eminent and respectable body of merchants; and that the execution of this enterprise was accompanied with sundry other engagements with other persons, in all of which the Company's interest was constantly sacrificed to that of individuals favored by the said Warren Hastings.

That the said Warren Hastings first engaged in a scheme to export one thousand four hundred and sixty chests of opium, on the Company's account, on board a ship belonging to Cudbert Thornhill, half of which was to be disposed of in a coasting voyage, and the remainder in Canton. That, besides the freight and commission payable to the said Thornhill on this adventure, twelve pieces of cannon belonging to the Company were lent for arming the ship; though his original proposal was, that the ship should be armed at his expense. That this part of the adventure, depending for its success on a prudent and fortunate management of various sales and resales in the course of a circuitous voyage, and being exposed to such risk both of sea and enemy that all private traders had declined to be concerned in it, was particularly unfit for a great trading company, and could not be undertaken on their account with any rational prospect of advantage.

That the said Warren Hastings soon after engaged in another scheme for exporting two thousand chests of opium directly to China on the Company's account, and for that purpose accepted of an offer made by Henry Watson, the Company's chief engineer, to convey the same in a vessel of his own, and to deliver

it to the Company's supra-cargoes. That, after the offer of the said Henry Watson had been accepted, a letter from him was produced at the board, in which he declared that he was unable to equip the ship with a proper number of cannon, and requested that he might be furnished with thirty-six guns from the Company's stores at Madras; with which request the board complied.

That it appears that George Williamson, the Company's auctioneer at Calcutta, having complained that by this mode of exporting the opium, which used to be sold by public auction, he lost his commission as auctioneer, the board allowed him to draw a commission of one per cent on all the opium which had been or was to be exported. That it appears that the contractor for opium (whose proper duties and emoluments as contractor ended with the delivery of the opium) was also allowed to draw a commission on the opium then shipping on the Company's account; but for what reason, or on what pretence, does not appear.

That the said Warren Hastings, in order to pay the said Stephen Sulivan in advance for the opium furnished or to be furnished by him in the first year of his contract, did borrow the sum of twenty lacs of rupees at eight per cent, or two hundred thousand pounds sterling, to be repaid by drafts to be drawn on the Company by their supra-cargoes in China, provided the opium consigned to them should arrive safe; but that, if the adventure failed, whether by the loss of the ships or otherwise, the subscribers to the above loan were to be repaid their capital and interest out of the Company's treasury in Bengal.

That the said Warren Hastings, having in this

manner purchased a commodity for which he said there was no sale, and paid for it with money which he was obliged to borrow at a high interest, was still more criminal in his attempt, or pretended plan, to introduce it clandestinely into China. That the importation of opium into China is forbidden by the Chinese government; that the opium, on seizure, is burnt, the vessel that imports it confiscated, and the Chinese in whose possession it may be found for sale punished with death.

That the Governor-General and Council were well aware of the existence of these prohibitions and penalties, and did therefore inform the supra-cargoes in China, that the ship belonging to the said Henry Watson would enter the river at China as an armed ship, *and would not be reported as bearing a cargo of opium, that being a contraband trade.*

That, of the above two ships, the first, belonging to Cudbert Thornhill, was taken by the French; and that the second, arriving in China, did occasion much embarrassment and distress to the Company's supra-cargoes there, who had not been previously consulted on the formation of the plan, and were exposed to great difficulty and hazard in the execution of their part of it. That the ship was delayed, at a demurrage of an hundred dollars a day, for upwards of three months, waiting in vain for a better market. The factory estimate the *loss* to the Company, including port charges, demurrage, and factory charges allowed the captain, at sixty-nine thousand nine hundred and ninety-three dollars, or about twenty thousand pounds sterling.

That the Company's factory at China, after stating the foregoing facts to the Court of Directors, conclude

with the following general observation thereon. "On a review of these circumstances, with the extravagant and unusual terms of the freight, demurrage, factory charges, &c., &c., we cannot help being of opinion that private considerations have been suffered to interfere too much for any benefit that may have been intended to the Honorable Company. We hope for the Honorable Court's approbation of our conduct in this affair. The novelty and nature of the consignments have been the source of much trouble and anxiety, and, though we wished to have had it in our power to do more, we may truly say we have exceeded our expectations."

That every part of this transaction, from the monopoly with which it commenced, to the contraband dealing with which it concluded, criminates the said Warren Hastings with wilful disobedience of orders and a continued breach of trust; that every step taken in it was attended with heavy loss to the Company, and with a sacrifice of their interest to that of individuals; and that, if finally a profit had resulted to the Company from such a transaction, no profit attending it could compensate for the probable risk to which their trade in China was thereby exposed, or for the certain dishonor and consequent distrust which the East India Company must incur in the eyes of the Chinese government by being engaged in a low, clandestine traffic, prohibited by the laws of the country.

XIII.—APPOINTMENT OF R. J. SULIVAN.

THAT in the month of February, 1781, Mr. Richard Joseph Sulivan, Secretary to the Select Committee

at Fort St. George, applied to them for leave to proceed to Calcutta *on his private affairs.* That, being the confidential secretary to the Select Committee at Fort St. George, and consequently possessed of all the views and secrets of the Company, as far as they related to that government, he went privately into the service of the Nabob of Arcot, and, under the pretence of proceeding to Calcutta on his private business, undertook a commission from the said Nabob to the Governor-General and Council, to negotiate with them in favor of certain projects of the said Nabob which had been reprobated by the Company.

That the said Sulivan was soon after appointed back again by the said Warren Hastings to the office of Resident at the Durbar of the said Nabob of Arcot. That it was a high crime and misdemeanor in the said Hastings to encourage so dangerous an example in the Company's service, and to interfere unnecessarily with the government of Madras in the discharge of the duties peculiarly ascribed to them by the practice and orders of the Company, for the purpose of appointing to a great and confidential situation a man who had so recently committed a breach of trust to his employers.

That the Court of Directors, in their letter to Bengal, dated the 12th of July, 1782, and received there on the 18th of February, 1783, did *condemn and revoke* the said appointment. That the said Directors, in theirs to Fort St. George, dated the 28th of August, 1782, and received there the 31st of January, 1783, did highly condemn the conduct of the said Sulivan, and, in order to deter their servants from practices of the same kind, *did dismiss him from their service.*

That the said Hastings, knowing that the said Suli-

van's appointment had been condemned and revoked by the Court of Directors, and pretending that on the 15th of March, 1783, he did not know that the said Sulivan was *dismissed* from the Company's service, though that fact was known at Madras on the 31st of the preceding January, did recommend the said Sulivan to be ambassador at the court of Nizam Ali Khân, Subahdar of the Deccan, in defiance of the authority and orders of the Court of Directors.

That, even admitting, what is highly improbable, that the *dismission* of the said Sulivan from the service of the said Company was not known at Calcutta in forty-three days from Madras, the last-mentioned nomination of the said Sulivan was made at least in contempt of the censure already expressed by the Court of Directors at his former appointment to the Durbar of the Nabob of Arcot, and which was certainly known to the said Hastings.

XIV. — RANNA OF GOHUD.

THAT on the 2d of December, 1779, the Governor-General and Council of Fort William, at the special recommendation and instance of Warren Hastings, Esquire, then Governor-General, and contrary to the declared opinion and protest of three of the members of the Council, viz., Philip Francis and Edward Wheler, Esquires, who were present, and of Sir Eyre Coote, who was absent, (by whose absence the casting voice of the said Warren Hastings, Esquire, prevailed,) did conclude a treaty of perpetual friendship and alliance, offensive and defensive, with a Hindoo prince, called the Ranna of Gohud, for the express purpose of using

the forces of the said Ranna in opposition to the Mahrattas.

That, among other articles, it was stipulated with the said Ranna by the said Warren Hastings, "that, whenever peace should be concluded between the Company and the Mahratta state, the Maha Rajah should be included as a party in the treaty which should be made for that purpose, and his present possessions, together with the fort of Gualior, which of old belonged to the family of the Maha Rajah, if it should be then in his possession, and such countries as he should have acquired in the course of war, and which it should then be stipulated to leave in his hands, should be guarantied to him by such treaty."

That, in the late war against the Mahrattas, the said Ranna of Gohud did actually join the British army under the command of Colonel Muir with two battalions of infantry and twelve hundred cavalry, and did then serve in person against the Mahrattas, thereby affording material assistance, and rendering essential service to the Company.

That, in conformity to the above-mentioned treaty, in the fourth article of the treaty of peace concluded on the 13th of October, 1781, between Colonel Muir, on the part of the English Company, and Mahdajee Sindia, the Mahratta general, the said Ranna of Gohud was expressly included.

That, notwithstanding the said express provision and agreement, Mahdajee Sindia proceeded to attack the forts and lay waste the territories of the said Ranna, and did undertake and prosecute a war against him for the space of two years, in the course of which the Ranna and his family were reduced to extreme distress, and in the end he was deprived of his forts, and the

whole not only of his acquired possessions, but of his original dominions, so specially guarantied to him by the British government in both the above-mentioned treaties.

That the said Warren Hastings was duly and regularly informed of the progress of the war against the Ranna, and of every event thereof; notwithstanding which, he not only neglected in any manner to interfere therein in favor of the said Ranna, or to use any endeavors to prevent the infraction of the treaty, but gave considerable countenance and encouragement to Mahdajee Sindia in his violation of it, both by the residence of the British minister in the Mahratta camp, and by the approbation shown by the said Warren Hastings to the promises made by his agent of observing the strictest neutrality, notwithstanding he was in justice bound, and stood pledged by the most solemn and sacred engagements, to protect and preserve the said Ranna from those enemies, whose resentment he had provoked only by his adherence to the interests of the British nation.

That, in the only attempt made to sound the disposition of Mahdajee Sindia relative to a pacification between him and the Ranna of Gohud, on the 14th of May, 1783, Mr. Anderson, in obedience to the orders he had received, did clearly and explicitly declare to Bhow Bucksey, the minister of Mahdajee Sindia, the sentiments of the said Warren Hastings in the words following: "That it was so far from your [the said Hastings's] meaning to intercede in his [the said Ranna's] favor, that I only desired him to sound Sindia's sentiments, and, in case he was desirous of peace, to mention what I had said; but if he seemed to prefer carrying on the war, I begged that

he would not mention a syllable of what had passed, but let the matter drop entirely."

That it afterwards appeared, in a minute of the said Hastings in Council at Fort William, on the 22d of September, 1783, that he promised, at the instance of a member of the Council, to write to Lieutenant James Anderson in favor of the Ranna of Gohud, and lay his letter before the board.

That, nevertheless, the said Hastings, professing *not to recollect* his said promise, *did neglect to write a formal letter to Lieutenant Anderson in favor of the said Ranna of Gohud*, and that the private letter, the extract of which the said Hastings did lay before the board on the 21st of October, 1783, so far from directing any effectual interference in favor of the said Ranna, or commanding his agent, the said James Anderson, to interpose the mediation of the British government to procure "*honorable terms*" for the said Ranna, or even "*safety to his person and family*," contains the bitterest invectives against him, and is expressive of the satisfaction which the said Hastings acknowledges himself to have enjoyed in the distresses of the said Ranna, the ally of the Company.

That the measures therein recommended appear rather to have been designed to satisfy Mahdajee Sindia, and to justify the conduct of the British government in not having taken a more active and a more hostile part against the said Ranna, than an intercession on his behalf.

That, though no consideration of good faith or observance of treaties could induce the said Hastings to incur the hazard of any hostile exertion of the British force for the defence or the relief of the allies of the Company, yet in the said private letter he directed,

that, in case his mediation should be accepted, it should be made *a specific condition*, that, *if the said Ranna should take advantage of Sindia's absence to renew his hostilities, we ought, in that case, on requisition, to invade the dominions of the Ranna.*

That no beneficial effects could have been procured to the said Ranna by an offer of mediation delayed till Sindia no longer wanted "*our assistance to crush so fallen an enemy*," at the same time that no reason was given to Sindia to apprehend the danger of drawing upon himself the resentment of the British government by a disregard of their proposal and the destruction of their ally.

That it was a gross and scandalous mockery in the said Hastings to defer an application to obtain honorable terms for the Ranna, and safety for his person and family, till he had been deprived of his principal fort, in defence of which his uncle lost his life, and on the capture of which, his wife, to avoid the dishonor consequent upon falling into the hands of her enemies, *had destroyed herself by an explosion of gunpowder.*

That, however, it does not appear that any offer of mediation was ever actually made, or any influence exerted, either for the safety of the Ranna's person and family or in mitigation of the *rigorous intentions* supposed by Lieutenant Anderson* to have been entertained against him by Mahdajee Sindia after his surrender.

That the said Hastings, in the instructions† given by him to Mr. David Anderson for his conduct in negotiating the treaty of peace with the Mahrattas, expressed his determination to desert the Ranna of

* 29 February, 1784. † Dated, Benares, 4th of November, 1781.

Gohud in the following words. "You will of course be attentive to any engagements subsisting between us and other powers, in settling the terms of peace and alliance with the Mahrattas. I except from this the Ranna of Gohud. . . . . Leave him to settle his own affairs with the Mahrattas."

That the said Anderson appears very assiduously to have sought for grounds to justify the execution of this part of his instructions, to which, however, he was at all events obliged to conform.

That, even after his application for that purpose to the Mahrattas, whose testimony was much to be suspected, because it was their interest to accuse and their determined object to destroy the said Ranna, no satisfactory proof was obtained of his defection from the engagements he had entered into with the Company.

That, moreover, if all the charges which have been pretended against the Ranna, and have been alleged by the said Hastings in justification of his conduct, had been well founded and proved to be true, the subject-matter of those accusations and the proofs by which they were to be supported were known to Colonel Muir before the conclusion of the treaty he entered into with Mahdajee Sindia; and therefore, whatever suspicions may have been entertained or whatever degree of criminality may have been proved against the said Ranna previous to the said treaty, from the time he was so provided for and included in the said treaty he was fully and justly entitled to the security stipulated for him by the Company, and had a right to demand and receive the protection of the British government.

That these considerations were urged by Mr. Anderson to the said Warren Hastings, in his letter of

the 24th of June, 1781, and were enforced by this additional argument, — "that, in point of policy, I believe, it ought not to be our wish that the Mahrattas should ever recover the fortress of Gualior. It forms an important barrier to our own possessions. In the hands of the Ranna it can be of no prejudice to us; and notwithstanding the present prospect of a permanent peace betwixt us and the Mahrattas, it seems highly expedient that there should always remain some strong barrier to separate us, on this side of India, from that warlike and powerful nation."

That the said Warren Hastings was highly culpable in abandoning the said Ranna to the fury of his enemies, thereby forfeiting the honor and injuring the credit of the British nation in India, notwithstanding the said Hastings was fully convinced, and had professed, "that the most sacred observance of treaties, justice, and good faith were necessary to the existence of the national interests in that country," and though the said Hastings has complained of the insufficiency of the laws of this kingdom to enforce this doctrine "by the punishment of persons in the possession of power, who may be impelled by the provocation of ambition, avarice, or vengeance, stronger than the restrictions of integrity and honor, to the violation of this just and wise maxim."

That the said Hastings, in thus departing from these his own principles, with a full and just sense of the guilt he would thereby incur, and in sacrificing the allies of this country "*to the provocations of ambition, avarice, or vengeance,*" in violation of the national faith and justice, did commit a gross and wilful breach of his duty, and was thereby guilty of an high crime and misdemeanor.

XV.—REVENUES

PART I.

THAT the property of the lands of Bengal is, according to the laws and customs of that country, an inheritable property, and that it is, with few exceptions, vested in certain natives, called *zemindars*, or landholders, under whom other natives, called *talookdars* and *ryots*, hold certain subordinate rights of property or occupancy in the said lands. That the said natives are Hindoos, and that their *rights and privileges are grounded upon the possession of regular grants, a long series of family succession, and fair purchase.* That it appears that Bengal has been under the dominion of the Mogul, and subject to a Mahomedan government, for above two hundred years. That, while the Mogul government was in its vigor, the property of zemindars was *held sacred*, and that, either by voluntary grant from the said Mogul or by composition with him, the native Hindoos were left in the free, quiet, and undisturbed possession of their lands, on the single condition of paying a fixed, certain, and unalterable revenue, or quit-rent, to the Mogul government. That this revenue, or quit-rent, was called the *aussil jumma*, or *original ground-rent*, of the provinces, and was not increased from the time when it was first settled in 1573 to 1740, when the regular and effective Mogul government ended. That, from that time to 1765, invasions, usurpations, and various revolutions took place in the government of Bengal, in consequence of which the country was considerably reduced and impoverished, when the East India Company received from the

present Mogul emperor, Shah Allum, a grant of the *dewanny*, or collection of the revenues. That about the year 1770 the provinces of Bengal and Bahar were visited with a dreadful famine and mortality, by which at least one third of the inhabitants perished. That Warren Hastings, Esquire, has declared, "that he had always heard the loss of inhabitants reckoned at a third, and in many places near one half of the whole, and that he knew not by what means such a loss could be recruited in four or five years, and believed it impossible." That, nevertheless, the revenue was *violently kept up to its former standard*, — that is, in the two years immediately preceding the appointment of the said Warren Hastings to the government of Fort William, — in consequence of which *the remaining two thirds of the inhabitants were obliged to pay for the lands now left without cultivation;* and that from the year 1770 to the year 1775 *the country had languished, and the evil continued enhancing every day*. That the said Warren Hastings, in a letter to the Secret Committee of the Court of Directors, dated 1st September, 1772, declared, "that the lands had suffered unheard-of depopulation by the famine and mortality of 1769; that the collections, *violently kept up to their former standard*, had added to the distress of the country, and threatened a general decay of the revenue, unless immediate remedies were applied to prevent it." That the said Warren Hastings has declared, "that, by intrusting the collections to the hereditary zemindars, the people would be treated with *more tenderness*, the rents more improved, and cultivation more likely to be encouraged; that *they* have a perpetual interest in the country; that *their* inheritance cannot be removed; that *they* are the

proprietors; that the lands are *their* estates, and *their* inheritance; that, from a long continuance of the lands in their families, it is to be concluded they have riveted an authority in the district, acquired an ascendency over the minds of the ryots, and *ingratiated their affections;* that, from continuing the lands under the management of those who have a natural and perpetual interest in their prosperity, solid advantages might be expected to accrue; that the zemindar would be less liable to failure or deficiencies than the farmer, from the perpetual interest which the former hath in the country, and because his inheritance cannot be removed, and it would be improbable that he should risk the loss of it by eloping from his district, which is too frequently practised by a farmer when he is hard-pressed for the payment of his balances, and as frequently predetermined when he receives his farm." That, notwithstanding all the preceding declarations made by the said Warren Hastings of the loss of one third of the inhabitants and general decline of the country, he did, immediately after his appointment to the government, in the year 1772, make an arbitrary settlement of the revenues for five years at a higher rate than had ever been received before, and with a progressive and accumulating increase on each of the four last years of the said settlement.

That, notwithstanding the right of property and inheritance, repeatedly acknowledged by the said Warren Hastings to be in the zemindars and other native landholders, and notwithstanding he had declared "that the security of private property is the greatest encouragement to industry, on which the wealth of every state depends," the said Warren Hast-

ings, nevertheless, in direct violation of those acknowledged rights and principles, did universally let the lands of Bengal *in farm* for five years, — thereby destroying all the rights of private property of the zemindars, — thereby delivering the management of their estates to farmers, and transferring by a most arbitrary and unjust act of power the whole landed property of Bengal from the owners to strangers. That, to accomplish this iniquitous purpose, he, the said Warren Hastings, did put the lands of Bengal up to a pretended public auction, *and invited all persons to make proposals for farming the same*, thereby encouraging strangers to bid against the proprietors, — in consequence of which, not only the said proprietors were ousted of the possession and management of their estates, but a great part of the lands fell into the hands of the banians, or principal black servants of British subjects connected with and protected by the government; and that the said Warren Hastings himself has since declared, that *by this way the lands too generally fell into the hands of desperate or knavish adventurers.** That, before the measure hereinbefore described was carried into execution, the said Warren Hastings did establish certain fundamental regulations in Council, to be observed in executing the same.† That among these regulations it was specially and strictly ordered, that no farm should exceed the annual amount of *one* lac of rupees, and "that no peshcar, banian, or other servant, of whatever denomination, of the collector, or relation or dependant of any such servant, should be allowed to farm lands, nor directly or indirectly to hold a concern in

* Revenue Consultation, 28th January, 1775.
† Revenue Board, 14th May, 1772.

any farm, nor to be security for any farmer." That, in direct violation of these his own regulations, and in breach of the public trust reposed in him, and sufficiently declared by the manifest duty of his station, if it had not been expressed and enforced by any positive institution, he, the said Warren Hastings, did permit and suffer his own banian or principal black steward, named Cantoo Baboo, to hold farms in different purgunnahs, or districts, or to be security for farms, to the amount of thirteen lac of rupees (130,000*l.* or upwards) per annum; and that, after enjoying the whole of those farms for two years, he was permitted by the said Warren Hastings to relinquish two of them. That on the subject of the farms held by Cantoo Baboo the said Warren Hastings has made the following declaration. "Many of his farms were taken without my knowledge, and almost all against my advice. I had no right to use compulsion or authority; nor could I with justice exclude him, because he was my servant, from a liberty allowed to all other persons in the country. The farms which he quitted he quitted by my advice, because I thought that he might engage himself beyond his abilities, and be involved in disputes, which I did not choose to have come before me as judge of them." * That the said declaration contains sundry false and contradictory assertions: that, if *almost all* the said farms were taken against his advice, it cannot be true that *many* of them were taken without his knowledge; that, whether Cantoo Baboo had been his servant or not, the said Warren Hastings was bound by his own regulations to prevent his holding any farms to a greater amount than one lac of rupees per annum, and that

* Address to the Court of Directors, 25th March, 1775.

the said Cantoo Baboo, being the servant of the Governor-General, was excluded by the said regulations from holding any farms whatever; that, if (as the Directors observe) it was thought dangerous to permit the banian of a collector to be concerned in farms, the same or stronger objections would always lie against the Governor's banian being so concerned; that the said Warren Hastings had a right, and was bound by his duty, to prevent his servant from holding the same; that, in advising the said Cantoo Baboo to relinquish some of the said farms, for which he was actually engaged, he has acknowledged an influence over his servant, and has used that influence for a purpose inconsistent with his duty to the India Company, namely, to deprive them of the security of the said Cantoo Baboo's engagement for farms which on trial he had found not beneficial, or not likely to continue beneficial, to himself; and that, if it was improper that he, the said Warren Hastings, should be the judge of any disputes in which his servant might be involved on account of his farms, that reason ought to have obliged him to prevent his servant from being engaged in any farms whatever, or to have advised his said servant to relinquish the remainder of his farms, as well as those which the said Warren Hastings affirms he quitted by his advice. That on the subject of the said charge the Court of Directors of the East India Company have come to the following resolution: "*Resolved*, That it appears that the conduct of the late President and Council of Fort William in Bengal, in suffering Cantoo Baboo, the present Governor-General's banian, to hold farms in different purgunnahs to a large amount, or to be security for such farms, contrary to the tenor and spirit of the 17th regulation of

the Committee of Revenue at Fort William, of the 14th May, 1772, and afterwards relinquishing that security without satisfaction made to the Company, was highly improper, and has been attended with considerable loss to the Company"; and that in the whole of this transaction the said Warren Hastings has been guilty of gross collusion with his servant, and manifest breach of trust to his employers.

That, whereas it was acknowledged by the said Warren Hastings, that the country, in the years 1770 and 1771, had suffered great depopulation and decay, and that the collections of those years, having been violently kept up to their former standard, had added to the distress of the country, the settlement of the revenues made by him for five years, commencing the 1st May, 1772, instead of offering any abatement or relief to the inhabitants who had survived the famine, held out to the East India Company a promise of great *increase* of revenue, to be exacted from the country by the means hereinbefore described. That this settlement was not realized, but fell considerably short, even in the first of the five years, when the demand was the lightest; and that on the whole of the five years the real collections fell short of the settlement to the enormous amount of two millions and a half sterling, and upwards. That such a settlement, if it had been or could have been rigorously exacted from a country already so distressed, and from a population so impaired, that, in the belief of the said Warren Hastings, it was impossible such loss could be recruited in four or five years, would have been in fact, what it appeared to be in form, an act of the most cruel and tyrannical oppression; but that the real use made of that unjust demand upon the natives of Bengal was,

to oblige them to compound privately with the persons who formed the settlement, and who threatened to enforce it. That the enormous balances and remissions on that settlement arose from a general collusion between the farmers and collectors, and from a general peculation and embezzlement of the revenues, by which the East India Company was grossly imposed on, in the first instance, by a promised *increase* of revenue, and defrauded, in the second, not only by the failure of that *increase*, but by the revenues falling short of what they were in the two years preceding the said settlement to a great amount. That the said Warren Hastings, being then at the head of the government of Bengal, was a party to all the said imposition, fraud, peculation, and embezzlement, and is principally and specially answerable for the same; and that, whereas sundry proofs of the said peculation and embezzlement were brought before the Court of Directors, the said Directors (in a letter dated the 4th of March, 1778, and signed by William Devaynes and Nathaniel Smith, Esquires, now Chairman and Deputy-Chairman of the said Court, and members of this House) did declare, that, "although it was rather their wish to prevent future evils than to enter into a severe retrospection of past abuses, yet, as in some of the cases then before them they conceived there had been *flagrant corruption*, and in others great oppressions committed on the native inhabitants, they thought it unjust to suffer the delinquents to pass wholly unpunished, and therefore they directed the Governor-General and Council forthwith to commence a prosecution against the persons who composed the Committee of Circuit, and their representatives, and against all other proper parties"; but that the prosecutions so

ordered by the Court of Directors in the year 1778 have never been brought to trial; and that the said Warren Hastings did, on the 23d of December, 1783, propose and carry it in Council, *that orders should be given for withdrawing* the said prosecutions, — declaring, that he was clearly of opinion that there was no ground to maintain them, and *that they would only be productive of expense to the Company and unmerited vexation to the parties.*

REVENUES.

PART II.

THAT the said Warren Hastings has on sundry occasions declared his deliberate opinion generally against all innovations, and particularly in the collection and management of the revenues of Bengal: that "he was well aware of the expense and inconvenience *which ever attends innovations of all kinds*, on their first institution;* — that innovations are *always* attended with difficulties and inconveniences, and innovations in the revenue with a suspension of the collections;† — that the continual variations in the mode of collecting the revenue, and the continual usurpation on the rights of the people, have fixed in the minds of the ryots a rooted distrust of the ordinances of government."‡ That the Court of Directors have repeatedly declared their apprehensions "that a sudden transition from one mode to another, in the investigation and collection of their revenue, might have alarmed the inhabitants, lessened their confidence in the Company's proceedings, and been attended with other evils."§

* 3d November, 1772. † 24th October, 1774. ‡ 22d April, 1775.
§ 5th February, 1777; 4th July, 1777.

That the said Warren Hastings, immediately after his appointment to the government of Fort William, in April, 1772, did abolish the office of *Naib Dewan*, or native collector of the revenues, then existing; that he did at the same time appoint a committee of the board to go on a circuit through the provinces, and to form a settlement of the revenues for five years; that he did then appoint sundry of the Company's servants to have the management of the collections, viz., one in each district, under the title of *Collector;* that he did then abolish the General Board of Revenue or Council at Moorshedabad, for the following reasons: "That, while the controlling and executive part of the revenue and the correspondence with the collectors was carried on by a council at Moorshedabad, the members of the administration at Calcutta had no opportunity of acquiring that thorough and comprehensive knowledge which could only result from *practical experience;* that the orders of the Court of Directors, which established a new system, which enjoined many new regulations and inquiries, could not properly be delegated to a subordinate council, and it became absolutely necessary that the business of the revenue should be conducted *under the immediate observation and direction of the board.*"* — That in November, 1773, the said Warren Hastings abolished the office of Collector, and transferred the collection and management of the revenues to several councils of revenue, commonly called *Provincial Councils.* That on the 24th of October, 1774, the said Warren Hastings *earnestly offered his advice* (to the Governor-General and Council, then newly appointed by act of Parliament) *for the continuation of the said*

* 3d November, 1772.

system of Provincial Councils in all its parts. That the said Warren Hastings did, on the 22d of April, 1775, transmit to the Directors a formal plan for the future settlement of the revenues, and did therein declare, that, "with respect to the mode of managing the collection of the revenue and the administration of justice, none occurred to him so good as the system which was already established of Provincial Councils." That on the 18th of January, 1776, the said Warren Hastings did transmit to the Court of Directors a plan for the better administration of justice, that in this plan the establishment of the said Provincial Councils was specially provided for and confirmed, and that Warren Hastings did recommend it to the Directors *to obtain the sanction of Parliament for a confirmation of the said plan.* That on the 30th of April, 1776, the said Warren Hastings did transmit to the Court of Directors the draft or scheme of an act of Parliament for the better administration of justice in the provinces, in which the said establishment of Provincial Councils is again specially included, and special jurisdiction assigned to the said Councils. That the Court of Directors, in a letter dated 5th of February, 1777, did give the following instruction to the Governor-General and Council, a majority of whom, viz., Sir John Clavering, Colonel Monson, and Mr. Francis, had disapproved of the plan of Provincial Councils: "If you are fully convinced that the establishment of Provincial Councils has not answered nor is not capable of answering the purposes intended by such institutions, we hereby direct you to form a new plan for the collection of the revenues, and to transmit the same to us *for our consideration.*" — That the said Warren Hastings, in contradiction to his own

sentiments repeatedly declared, and to his own advice repeatedly and deliberately given, and in defiance of the orders of the Directors, to whom he transmitted no previous communication whatever of his intention to abolish the said Provincial Councils, did, in the beginning of the year 1781, again change the whole system of the collections of the public revenue of Bengal, as also the administration of civil and criminal justice throughout the provinces. That the said Warren Hastings, in a letter dated 5th of May, 1781, advising the Court of Directors of the said changes, has falsely affirmed, "that the plan of superintending and collecting the public revenue of the provinces through the agency of Provincial Councils had been instituted for the temporary and declared purpose of introducing another more permanent mode *by an easy and gradual change*"; that, on the contrary, the said Warren Hastings, from the year 1773 to the year 1781, has constantly and uniformly insisted on the wisdom of that institution, and on the necessity of never departing from it; that he has in that time repeatedly advised that the said institution should be confirmed *in perpetuity* by an act of Parliament; that the said total dissolution of the Provincial Councils was not introduced by any easy and gradual change, nor by any gradations whatever, but was sudden and unprepared, and instantly accomplished by a single act of power; and that the said Warren Hastings, in the place of the said Councils, has substituted a Committee of Revenue, consisting of four covenanted servants, on principles opposite to those which he had himself professed, and with exclusive powers, tending to deprive the members of the Supreme Council of a due knowledge of and inspection into the management

of the territorial revenues, specially and unalienably vested by the legislature in the Governor-General and Council, and to vest the same solely and entirely in the said Warren Hastings. That the reasons assigned by the said Warren Hastings for constituting the said Committee of Revenue are incompatible with those which he professed when he abolished the subordinate Council of Revenue at Moorshedabad: that he has invested the said Committee *in the fullest manner with all the powers and authority of the Governor-General and Council;* that he has thereby contracted the whole power and office of the Provincial Councils into a small compass, and vested the same in four persons appointed by himself; that he has thereby taken the general transaction and cognizance of revenue business out of the Supreme Council; that the said Committee are empowered to conduct the current business of the revenue department without reference to the Supreme Council, and only *report to the board such extraordinary occurrences, claims, and proposals as may require the special orders of the board;* that even the instruction to report to the board in extraordinary cases is nugatory and fallacious, being accompanied with limitations which make it impossible for the said board to decide on any questions whatsoever: since it is expressly provided by the said Warren Hastings, *that, if the members of the Committee differ in opinion, it is not expected that every dissentient opinion should be recorded;* consequently the Supreme Council, on any reference to their board, can see nothing but the resolutions or reasons of the majority of the Committee, without the arguments on which the dissentient opinions might be founded: and since it is also expressly provided by

the said Warren Hastings, that *the determination of the majority of the Committee should not therefore be stayed, unless it should be so agreed by the majority,* — that is, that, notwithstanding the reference to the Supreme Council, the measure shall be executed without waiting for their decision.

That the said Warren Hastings has delivered his opinion, with many arguments to support the same, in favor of long leases of the lands, in preference to *annual* settlements: that he has particularly declared, "that the farmer who holds his farm for one year only, having no interest in the next, takes what he can with the hand of rigor, which, even in the execution of legal claims, is often equivalent to violence; he is under the necessity of being rigid, and *even cruel,* — for what is left in arrear after the expiration of his power is at best a doubtful debt, if ever recoverable; he will be tempted to exceed the bounds of right, and to augment his income by irregular exactions, and by racking the tenants, for which pretences will not be wanting, where the farms pass *annually* from one hand to another; that the discouragements which the tenants feel from being transferred every year to new landlords are a great objection to such short leases; that they contribute to injure the cultivation and dispeople the lands; that, on the contrary, from long farms the farmer acquires a permanent interest in his lands; he will, for his own sake, lay out money in assisting his tenants in improving lands already cultivated, and in clearing and cultivating waste lands."* That, nevertheless, the said Warren Hastings, having left it to the discretion of the Committee of Revenue, appointed by him in 1781, to fix the time for which

* 14th May, 1772.

the ensuing settlement should be made, and the said Committee having declared, that, *with respect to the period of the leases in general, it appeared to the Committee that to limit them to one year would be the best period*, he, the said Warren Hastings, approved of that limitation, in manifest contradiction to all his own arguments, professions, and declarations concerning the fatal consequences of *annual* leases of the lands; that in so doing the said Warren Hastings did not hold himself bound or restrained by the orders of the Court of Directors, but acted upon his own discretion; and that he has, for partial and interested purposes, exercised that discretion in particular instances against his own general settlement for one year, by granting perpetual leases of farms and zemindaries to persons specially favored by him, and particularly by granting a perpetual lease of the zemindary of Baharbund to his servant Cantoo Baboo on very low terms.

That in all the preceding transactions the said Warren Hastings did act contrary to his duty as Governor of Fort William, contrary to the orders of his employers, and contrary to his own declared sense of expediency, consistency, and justice, and thereby did harass and afflict the inhabitants of the provinces with perpetual changes in the system and execution of the government placed over them, and with continued innovations and exactions, against the rights of the said inhabitants,—thereby destroying all security to private property, and all confidence in the good faith, principles, and justice of the British government. And that the said Warren Hastings, having substituted his own instruments to be the managers and collectors of the public revenue, in the manner hereinbefore mentioned, did act in manifest breach

and defiance of an act of the 13th of his present Majesty, by which *the ordering and management and government of all the territorial revenues in the kingdoms of Bengal, Bahar, and Orissa* were vested in the Governor-General and Council, without any power of delegating the said trust and duty to any other persons; and that, by such unlawful delegation of the powers of the Council to a subordinate board appointed by himself, he, the said Warren Hastings, did in effect unite and vest in his own person the ordering, government, and management of all the said territorial revenues; and that for the said illegal act he, the said Warren Hastings, is solely answerable, the same having been proposed and resolved in Council when the Governor-General and Council consisted but of two persons present, — namely, the said Warren Hastings, and the late Edward Wheler, Esquire, and when consequently the Governor-General, by virtue of the casting voice, possessed the whole power of the government. That, in all the changes and innovations hereinbefore described, the pretence used by the said Warren Hastings to recommend and justify the same to the Court of Directors has been, that such changes and innovations would be attended with increase of revenue or diminution of expense to the East India Company; that such pretence, if true, would not have been a justification of such acts; but that such pretence is false and groundless: that during the administration of the said Warren Hastings the territorial revenues have declined; that the charges of collecting the same have greatly increased; and that the said Warren Hastings, by his neglect, mismanagement, and by a direct and intended waste of the Company's property, is chargeable with and

answerable for all the said decline of revenue, and all the said increase of expense.

XVI.—MISDEMEANORS IN OUDE.

I. THAT the province of Oude and its dependencies were, before their connection with and subordination to the Company, in a flourishing condition with regard to culture, commerce, and population, and their rulers and principal nobility maintained themselves in a state of affluence and splendor; but very shortly after the period aforesaid, the prosperity both of the country and its chiefs began sensibly and rapidly to decline, insomuch that the revenue of the said province, which, on the lowest estimation, had been found, in the commencement of the British influence, at upwards of three millions sterling annually, (and that ample revenue raised without detriment to the country,) did not in the year 1779 exceed the sum of 1,500,000*l.*, and in the subsequent years did fall much short of that sum, although the rents were generally advanced, and the country grievously oppressed in order to raise it.

II. That in the aforesaid year, 1779, the demands of the East India Company on the Nabob of Oude are stated by Mr. Purling, their Resident at the court of Oude, to amount to the sum of 1,360,000*l.* sterling and upwards, leaving (upon the supposition that the whole revenue should amount to the sum of 1,500,000*l.* sterling, to which it did not amount) no more than 140,000*l.* sterling for the support of the dignity of the household and family of the Nabob, and for the maintenance of his government, as well as for the payment of the public debts due within the province.

III. That by the treaty of Fyzabad a regular brigade of the Company's troops, to be stationed in the dominions of the Nabob of Oude, was kept up at the expense of the said Nabob; in addition to which a temporary brigade of the same troops was added to his establishment, together with several detached corps in the Company's service, and a great part of his own native troops were put under the command of British officers.

IV. That the expense of the Company's temporary brigade increased in the same year (the year of 1779) upwards of 80,000*l.* sterling above the estimate, and the expense of the country troops under British officers in the same period increased upwards of 40,000*l.* sterling; and in addition to the aforesaid ruinous expenses, a large civil establishment was gradually, secretly, and without any authority from the Court of Directors, or record in the books of the Council-General concerning the same, formed for the Resident, and another under Mr. Wombwell, an agent for the Company; as also several pensions and allowances, in the same secret and clandestine manner, were charged on the revenues of the said Nabob for the benefit of British subjects, besides large occasional gifts to persons in the Company's service.

V. That in the month of November, 1779, the said Nabob did represent to Mr. Purling, the Company's Resident aforesaid, the distressed state of his revenues in the following terms. "During three years past, the expense occasioned by the troops in brigade, and others commanded by European officers, has much distressed the support of my household, insomuch that the allowances made to the seraglio and children of

the deceased Nabob have been reduced to *one fourth* of what it had been, upon which they have subsisted in a very distressed manner for two years past. The attendants, writers, and servants, &c., of my court, have received no pay for two years past; and there is at present no part of the country that can be allotted to the payment of my father's private creditors, whose applications are daily pressing upon me. All these difficulties I have for these three years past struggled through, and found this consolation therein, that it was complying with the pleasure of the Honorable Company, and in the hope that the Supreme Council would make inquiry from impartial persons into my distressed situation; but I am now forced to a representation. From the *great increase of expense*, the revenues were necessarily farmed out *at a high rate;* and deficiencies followed yearly. The country and cultivation is abandoned; and this year in particular, from the excessive drought, deductions of many lacs" (stated by the Resident, in his letter to the board of the 13th of the month following, to amount to twenty-five lac, or 250,000*l.* sterling) "have been allowed the farmers, who were still left unsatisfied. I have received but just sufficient to support my absolute necessities, the revenues being deficient to the amount of fifteen lac [150,000*l.* sterling], and for this reason many of the old chieftains with their troops, and the useful attendants of the court, were forced to leave it, and there is now only a few foot and horse for the collection of my revenues; and should the zemindars be refractory, there is not left a sufficient number to reduce them to obedience." And the said Nabob did therefore pray that the assignments for the new brigade, the corps of horse, and the other de

tached bodies of the Company's troops might not be required from him: alleging, "that the former was not only quite useless to his government, but, moreover, the cause of much loss, both in the revenues and customs; and that the detached bodies of troops under their European officers brought nothing but confusion into the affairs of his government, and were entirely their own masters."

VI. That it appears that the said Nabob was not bound by any treaty to the maintenance, without his consent, *even of the old brigade*,—the Court of Directors having, in their letter of the 15th December, 1775, approved of keeping the same in his service, "*provided it was done with the free consent of the Subah, and by no means without it.*" And the *new brigade* and temporary corps were raised on the express condition, that the expense thereof should be charged on the Nabob only "*for so long a time as he should require the corps for his service.*" And the Court of Directors express to the Governor-General and Council their sense of the said agreement in the following terms: "But if you intend to exert your influence first to induce the Vizier to acquiesce in your proposal, and afterwards *to compel him to keep the troops in his pay during your pleasure, your intents are unjust; and a correspondent conduct would reflect great dishonor on the Company.*"

VII. That, in answer to the decent and humble representation aforesaid of the Nabob of Oude, the allegations of which, so far as they relate to the distressed state of the Nabob's finances, and his total inability to discharge the demands made on him,

were confirmed by the testimony of the English Resident at Oude, and which the said Hastings did not deny in the whole or in any part thereof, he, the said Warren Hastings, did, on pretence of certain political dangers, declare the relief desired to be "without hesitation *totally* inadmissible," and did falsely and maliciously insinuate, "that the *tone* in which the demands of the Nabob were asserted, and the season in which they were made, did give cause for *the most alarming suspicions.*" And the said Warren Hastings did, in a letter to the Nabob aforesaid, written in haughty and insolent language, and without taking any notice of the distresses of the said Nabob, alleged and verified as before recited, "require and insist upon your [the Nabob's] granting *tuncaws* [assignments] for the full amount of their [the Company's] demands upon you for the current year, and on your reserving funds sufficient to answer them, *even should the deficiencies of your revenues compel you to leave your own troops unprovided for, or to disband a part of them to enable you to effect it.*"

VIII. That, in a letter written at the same time to the Resident, Purling, and intended for his directions in enforcing on the Nabob the unjust demands aforesaid, the said Warren Hastings hath asserted, in direct contradiction to the treaties subsisting between the said Nabob and the Company, "that he [the Nabob] stands engaged to our government to maintain the English armies which at his own request have been formed for the protection of his dominions, and *that it is our part, and not his, to judge and determine in what manner and at what time these shall be reduced and withdrawn.*" And in a Minute of Consultation,

when the aforesaid measure was proposed by the said Hastings to the Supreme Council, he did affirm and maintain that the troops aforesaid "had now no *separate* or distinct existence from ours, and may be properly said to consist of our *whole* military establishment, with the exception only of our European infantry; and that they could not be withdrawn without imposing on the Company *the additional burden of them*, or disbanding nine battalions of disciplined sepoys and three regiments of horse."

IX. That in the Minute of Consultation aforesaid, he, the said Warren Hastings, hath further, in justification of the violent and arbitrary proceedings aforesaid, asserted, "that the arrangement of measures between the British government and their allies, the native powers of India, must, in case of disagreement about the necessity thereof, *be decided by the strongest*"; and hath thereby advanced a dangerous and most indecently expressed position, subversive of the rights of allies, and tending to breed war and confusion, instead of cordiality and coöperation amongst them, and to destroy all confidence of the princes of India in the faith and justice of the English nation. And the said Hastings, having further, in the minute aforesaid, presumed to threaten to "bring to punishment, if my influence" (his, the said Hastings's, influence) "can produce that effect, *those incendiaries* who have endeavored to make themselves the instruments of division between us," hath, as far as in him lay, obstructed the performance of one of the most essential duties of a prince engaged in an unequal alliance with a presiding state, — that of representing the grievances of his subjects to that more powerful

state by whose acts they suffer: leaving thereby the governing power in total ignorance of the effects of its own measures, and to the oppressed people no other choice than the alternative of an unqualified submission, or a resistance productive of consequences more fatal.

X. That, all relief being denied to the Nabob, in the manner and on the grounds aforesaid, the demands of the Company on the said Nabob in the year following, that is to say, in the year 1780, did amount to the enormous sum of 1,400,000*l.* sterling, and the distress of the province did rapidly increase.

XI. That the Nabob, on the 24th of February of the same year, did again write to the Governor-General, the said Warren Hastings, a letter, in which he expressed his constant friendship to the Company, and his submission and obedience to their orders, and asserting that he had not troubled them with any of his difficulties, trusting they would learn them from other quarters, and that he should be relieved by their friendship. "But," he says, "when *the knife had penetrated to the bone*, and I was surrounded with such heavy distresses that I could no longer live in expectations, I then wrote an account of my difficulties. The answer I have received to it is such that it has given me inexpressible grief and affliction. I never had the least idea or expectation from you and the Council that you would have given your orders in *so afflicting a manner, in which you never before wrote, and I could never have imagined.* I have delivered up all my *private* papers to him [the Resident], that, after examining my receipts and expenses, he

may take whatever remains. That, as I know it to be my duty to satisfy you [the Company and Council], I have not failed to obey in any instance; but requested of him that it might be done so as not to distress me in my *necessary* expenses. There being no other funds but those for the expenses of my *mutseddies* [clerks and accountants], household expenses, and servants, &c., he demanded these in such a manner, that, being remediless, I was obliged to comply with what he required. He has accordingly stopped *the pensions of my old servants for thirty years, whether sepoys* [*soldiers*], *mutseddies* [*secretaries and accountants*], *or household servants, and the expenses of my family and kitchen, together with the jaghires of my grandmother, mother, and aunts, and of my brothers and dependants, which were for their support.*"

XII. That, in answer to the letter aforesaid, the Resident received from the said Warren Hastings and Council an order to persevere in the demand to its fullest extent, — that is to say, to the amount of 1,400,000*l.* sterling.

XIII. That on the 15th of May the Nabob replied, complaining in an humble and suppliant manner of his distressed situation: that he had at first opposed the assigning to the use of the Company the estates of his mother, of his grandmother, of one of his uncles, and of the sons of another, but that, in obedience to the injunctions of the gentlemen of the Council, it had been done, to the amount, on the whole, of 80,000*l.* sterling a year, or thereabouts; that whatever effects were in the country, with even his table, his animals, and the salaries of his servants, were

granted in assignments; that, besides these, if they were resolved again to compel him to give up the estates of his parents and relations, which were granted them for their maintenance, they were at the Company's disposal; saying, "If the Council have directed you to attach them, do it: in the country no further sources remain. I have no means; for I have not a subsistence. — How long shall I dwell upon my misfortunes?"

XIV. That the truth of the said remonstrances was not disputed, nor the *tone* in which they were written complained of, the same being submissive, and even abject, though the cause (his distresses) was by the said Hastings, in a great degree, and in terms the most offensive, attributed to the Nabob himself; but no relief was given, and the same unwarrantable establishments, maintained at the same ruinous expense, were kept up.

XV. That the said Warren Hastings, having considered as incendiaries those who advised the remonstrances aforesaid, and, to prevent the same in future, having denounced vengeance on those concerned therein, did, for the purpose of keeping in his own power all representations of the state of the court and country aforesaid, and to subject both the one and the other to his own arbitrary will, and to draw to himself and to his creatures the management of the Nabob's revenues, in defiance of the orders of the Court of Directors, a second time recall Mr. Bristow, the Company's Resident, from the court of Oude, — having once before recalled him, as the said Directors express themselves, "without the shadow of a charge

being exhibited against him," and having, on the occasion and time now stated, produced no specific charge against the said Resident; and he, the said Hastings, did appoint Nathaniel Middleton, Esquire, to succeed him, — it being his declared principle, that he must have a person of *his own* confidence in that situation.

XVI. That the said Warren Hastings, after he had refused all relief to the distresses of the Nabob in the manner aforesaid, and had described those who advised the representation of the grievances of Oude as *incendiaries*, did himself, in a minute of the 21st May, 1781, describe that province "as fallen into a state of great disorder and confusion, and its resources in an extraordinary degree diminished," — and did state, that his presence in the said province was requested by the Nabob, and that, unless some effectual measures were taken for his relief, he [the Nabob] must be under the necessity of leaving his country, and coming down to Calcutta, to represent the situation of his government. And Mr. Wheler did declare that the Governor-General's representation of the state of that province "was but too well founded, and was convinced that it would require his utmost abilities and powers, applied and exercised on the spot, to restore it to its former good order and affluence."

XVII. That the said Warren Hastings, in consequence of the minute aforesaid, did grant to himself, and did procure the consent of his only colleague, Edward Wheler, Esquire, to a commission or delegation, with powers "to assist the Nabob Vizier in

forming such regulations as may be necessary for the peace and good order of his government, the improvement of his revenue, and the adjustment of the mutual concerns subsisting between him and the Company." And in the said commission or delegation he, the said Warren Hastings, did cause to be inserted certain powers and provisions of a new and dangerous nature: that is to say, reciting the business before mentioned, he did convey to himself "such authority to enforce the same *as the Governor-General and Council might or could exercise on occasions in which they could be warranted to exercise the same*, and to form and conclude such several engagements or treaties with the Nabob Vizier, the government of Berar, and with any chiefs or powers of Hindostan, as *he* should judge expedient and necessary." Towards the conclusion of the act or instrument aforesaid are the words following, viz.: "It is hereby declared, that all such acts, and all such engagements or treaties aforesaid, shall be binding on the Governor-General and Council in the same manner, *and as effectually, as if they had been done and passed by the specific and immediate concurrence and actual junction of the Governor-General and Council, in council assembled.*" And the said powers were, by the said Warren Hastings, given by himself and the said Wheler, under the seal of the Company, on the 3d July, 1781.

XVIII. That the said commission, delegating to him, the said Warren Hastings, the whole functions of the Council, is destructive to the constitution thereof, and is contrary to the Company's standing orders, and is illegal.

XIX. That, in virtue of those powers, and the illegal delegation aforesaid, the said Warren Hastings, after he had finished his business at Benares, did procure a meeting with the Nabob of Oude at a place called Chunar, upon the confines of the country of Benares, and did there enter into a treaty, or pretended treaty, with the said Nabob; one part of which the said Warren Hastings did pretend was drawn up from a series of requisitions presented to him by the Nabob, but which requisitions, or any copy thereof, or of any other material document relative thereto, he did not at the time transmit to the Presidency, — the said Warren Hastings informing Mr. Wheler, that the Resident, Middleton, had taken the *authentic* papers relative to this transaction with him to Lucknow: and it does not appear that the said Warren Hastings did ever reclaim the said papers, in order to record them at the Presidency, to be transmitted to the Court of Directors, as it was his duty to do.

XX. That the purport of certain articles of the said treaty, on the part of the Company, was, that, in consideration of the Nabob's *inability* (which inability the preamble of the treaty asserts to have been "repeatedly and urgently represented") to support the expenses of the temporary brigade, and of three regiments of cavalry, and also of the British officers with their battalions, and of *other* gentlemen who were then paid by him, the several corps aforesaid, and the other gentlemen, (with the exception of the Resident's office *then on the Nabob's list*, and a regiment of sepoys for the Resident's guard,) should, after a term of two and a half months, be no longer at his,

the Nabob's, charge: "the true meaning of this being, that no more troops than one brigade, and the pay and allowances of a regiment of sepoys," (as aforesaid, to the Resident,) amounting in the whole to 342,000*l.* a year, should be paid by the Nabob; and that *no officers, troops, or others, should be put upon the Nabob's establishment*, exclusive of those in the said treaty stipulated.

XXI. That the said Warren Hastings did defend and justify the said articles, in which the troops aforesaid were to be removed from the Nabob's establishment, by declaring as follows. "That the *actual* disbursements to those troops had fallen upon *our own funds*, and that *we* support a body of troops, established *solely* for the defence of the Nabob's possessions, *at our own expense*. It is true, we charge the Nabob with this expense; but the large balance already due from him shows too justly the little prospect there was of disengaging ourselves from *a burden* which was daily adding to *our* distresses and must soon become *insupportable*, although it were granted that the Nabob's debt, then suffered to accumulate, *might at some future period be liquidated*, and that this measure would substantially effect an instant relief to the pecuniary distresses of the Company."

XXII. That Nathaniel Middleton, the Resident, did also declare that he would at all times testify, "that, upon the plan of the foregoing years, the receipts from the Nabob were only *a deception*, and *not an advantage*, but *an injury* to the Company," and "that a remission to the Nabob of this *insufferable burden* was *a profit* to the Company." And the said

Hastings did assert that the force of the Company was not lessened by withdrawing the temporary troops; although, when it suited the purpose of the said Hastings, in denying just relief to the distresses of the said Nabob of Oude, he had not scrupled to assert the direct contrary of the positions by him maintained in justification of the treaty of Chunar,—having in his minute aforesaid, of the 15th of December, 1779, asserted, "that these troops" (the troops maintained by the Nabob of Oude) "had no *separate or distinct existence*, and may be properly said to consist of our whole military establishment, with the exception only of our European infantry, and that they could not be *withdrawn, without imposing on the Company the additional burden of their expense*, or disbanding nine battalions of disciplined sepoys and three regiments of horse."

XXIII. That he, the said Warren Hastings, in justification of his agreement to withdraw the troops aforesaid from the territories and pay of the Nabob of Oude, did further declare, "that he had been too much accustomed to the tales of hostile preparation and impending invasions, against all the evidence of political probability, to regard them as any other than phantoms raised for the purpose of perpetuating or multiplying commands," and he did trust "all ideas of danger from the neighboring powers were altogether visionary; and that, even if they had been better founded, this mode of anticipating possible evils would be more mischievous than anything they had reason to apprehend," and that the internal state of the Nabob's dominions did not require the continuance of the said troops; and that the Nabob, "*whose concern*

it was, and not ours," did affirm the same,—notwithstanding he, the said Hastings, had before, in answer to the humble supplications of the Nabob, asserted, that "*it was our part, and not his,* to judge and determine in what manner and at what time they should be reduced or withdrawn."

XXIV. That the said Warren Hastings, in support of his measure of withdrawing the said brigade and other troops, did also represent, that "the remote stations of those troops, placing the commanding officers beyond the notice and control of the board, afforded too much opportunity and temptation for unwarrantable emoluments, and excited the *contagion of peculation and rapacity throughout the whole army,* and, as an instance thereof, that a court-martial, composed of officers of rank and respectable characters, unanimously and honorably, 'most honorably,' acquitted an officer upon an acknowledged fact which in times of stricter discipline would have been deemed a crime deserving the severest punishment."

XXV. That the said Warren Hastings, having in the letter aforesaid contradicted all the grounds and reasons by him assigned for keeping up the aforesaid establishment, and having declared his own conviction that the whole was a fallacy and imposition, and a detriment to the Company instead of a benefit, circumstances (if they are true) which he might and ought to have well known, was guilty of an high crime and misdemeanor in carrying on the imposture and delusion aforesaid, and in continuing an insupportable burden and grievance upon the Nabob for several years, without attending to his repeated supplications

to be relieved therefrom, to the utter ruin of his country, and to the destruction of the discipline of the British troops, by diffusing among them a general spirit of peculation ; and the said Hastings hath committed a grievous offence in upholding the same pernicious system, until, by his own confession and declaration, in his minute of the 21st of May, 1781, "the evils had *grown* to so great an height, that exertions will be required more powerful than can be made through the delegated authority of the servants of the Company now in the province, and that he was far from sanguine in his expectations that *even his own endeavors would be attended with much success.*"

XXVI. That, at the time of making the said treaty, and at the time when, under color of the distress of the Nabob of Oude, and the failure of all other means for his relief, he, the said Hastings, broke the Company's faith with the parents of the Nabob, and first encouraged and afterwards compelled him to despoil them of their landed estates, money, jewels, and household goods, and while the said Nabob continued heavily in debt to the Company, he, the said Warren Hastings, did, "*without hesitation,*" accept of and receive from the Nabob of Oude and his ministers (who are notoriously known to be not only under his influence, but under his absolute command) a bribe, or unlawful gift or present, of one hundred thousand pounds sterling, and upwards. That, even if the said pretended gift could be supposed to be voluntary, it was contrary to the express provision of the Regulating Act of the 13th year of his Majesty's reign, prohibiting the receipt of all presents upon any pretence whatso-

ever, and contrary to his own sense of the true intent and meaning of the said act, declared upon a similar, but not so strong a case, — that is, where the service done, and the present offered in return for it, had taken place before the promulgation of the above laws in India: on that occasion he declared, "that the exclusion by an act of Parliament *admitted of no abatement or evasion*, wherever its authority extended."

XXVII. That the said Warren Hastings, confiding in an interest which he supposed himself to have formed in the East India House, did endeavor to prevail on the Court of Directors to violate the said act, and to suffer him to appropriate the money so illegally accepted by him to his own profit, as a reward for his services.

XXVIII. That the said Warren Hastings has since declared to the Court of Directors, that, when *fortune threw a sum in his way* (meaning the sum of money above mentioned) *of a magnitude which could not be concealed, he chose to apprise his employers of it:* * thereby confessing, that, but for the magnitude of the same rendering it difficult to be concealed, he never would have discovered it to them. And the said unlawful present being received at the time when, for reasons directly contradictory of all his former recorded declarations, he did agree to remove the aforesaid troops from the Nabob's dominions, and to recall the pensioners aforesaid, it must be presumed that he did not agree to give the relief (which he had before so obstinately refused) upon the grounds and motives of justice, policy, or humanity, but in consideration

* See his letter of the 11th July, 1785, at the end of the Charges

of the sum of money aforesaid, which, in a time of such extreme distress in the Nabob's affairs, could not be rationally given, except for those and other concessions stipulated for in the said treaty, but which had on former occasions been refused.

XXIX. That, notwithstanding his, the said Warren Hastings's, receipt of the present of one hundred thousand pounds, as aforesaid, he did violate every one of the stipulations in the said treaty contained, and particularly he did continue in the country, and in the service of the Nabob of Oude, those troops which he had so recently stipulated to withdraw from his country and to take from his establishment: for, upon the 24th of December following, he did order the temporary brigade, making ten battalions of five hundred men each, to be again put on the Vizier's list, — although he had recently informed the Court of Directors, through Edward Wheler, Esquire, that any benefit to be derived from the Nabob's paying that brigade was *a fallacy and a deception*, and that the same was *a charge* upon the Company, and not *an alleviation of its distresses*, as well as *an insupportable burden* to the Nabob: thus having, within a short space of time, twice contradicted himself, both in declaration and in conduct.

XXX. That this measure, in direct violation of a treaty of not three months' duration, was so injudicious, that, in the opinion of the Assistant Resident, Johnson, "nothing less than blows could effect it": he, the said Resident, further adding, "that the Nabob was not even able to pay off the arrears still due to it [the new brigade]; and that the troops being *all* in

arrears, and no possibility of present payment, so large a body assembled here [viz., at Lucknow] without any means to check and control them, nothing but disorder could follow. As one proof that the Nabob is as badly off for funds as we are, I may inform you that his cavalry rose this day upon him, and went all armed to the palace, to demand from thirteen to eighteen months' arrears, and were with great difficulty persuaded to retire, which was probably more effected by a body of troops getting under arms to go against them than any other consideration." But the letter of Warren Hastings, Esquire, of the 24th of December, giving the above orders for the infraction of the treaty, and to which the letter from whence the foregoing extracts are taken is an answer, doth not appear, any otherwise than as the same is recited in the said answer.

XXXI. That, notwithstanding the disorders and deficiencies in the revenue aforesaid had continued and increased, and that three very large balances had accumulated, the said Warren Hastings did cause the Treasury accounts at Calcutta to be examined and scrutinized, and an account of another arrear, composed of various articles, pretended to have accumulated during seven years previous to the year 1779, (the articles composing which, if they had been just, ought to have been charged at the times they severally became due,) was sent to the Resident, and payment thereof demanded, to the amount of 260,000*l.* sterling; which unexpected demand, in so distressed a situation, did not a little embarrass the Nabob. But whilst he and his ministers were examining into the said unexpected demand, another, and

fifth balance, made up of similar forgotten articles, was demanded, to the amount of 140,000*l.* sterling more. Which said two last demands did so terrify and confound the Nabob and his ministers, that they declared that the Resident "might at once take the country, since justice was out of the question."

XXXII. That the said Hastings, in order to add to the confusion, perplexity, and distress of the Nabob's affairs, did send to his court (in which he had already a Resident and Assistant Resident) two secret agents, Major Palmer and Major Davy, and did instruct Major Palmer to make a variety of new claims, one of a loan to the Company of 600,000*l.* sterling, although he well knew the Nabob was himself heavily in arrear to the Company, and was utterly unable to discharge the same, as well as in arrear to his own troops, and to many individuals, and that he borrowed (when he could at all borrow) at an interest of near thirty per cent. To this demand was added a new bribe, or unlawful present, to himself, to the amount of 100,000*l.* sterling, which he did not refuse as unlawful and of evil example, but as *indelicate* in the Nabob's present situation, — and did, as if the same was his own property, presume to dispose of it, and to desire the transfer of it, as of his own bounty, to the Company, his masters. To this second demand he, the said Hastings, added a third demand of 120,000*l.* sterling, for four additional regiments on the Nabob's list, after he had solemnly engaged to take off the ten with which it had been burdened: the whole of the claims through his private agent aforesaid making the sum of 820,000*l.* sterling.

XXXIII. That the demands, claims, &c., made by the said Warren Hastings upon the government of Oude in that year amounted to the enormous sum of 2,530,000*l.* sterling; which joined to the arrears to troops, and some internal failures, amounting to 255,000*l.* sterling more, the whole charge arose to 2,785,000*l.* sterling, which was considerably more than double the net produce of the Nabob's revenue, — the same only amounting to 1,450,000*l.* "nominal revenue, never completely realized."

XXXIV. That, towards providing for these extravagant demands, he, the said Warren Hastings, did direct and authorize another breach of the public faith given in the treaty of Chunar. For whereas, by the second article of the treaty aforesaid, it was left to the Nabob's discretion whether or not he should resume the landed estates, called jaghires, within his dominions, and notwithstanding the said Hastings, in defence of the said article, did declare that the Nabob should be left to the exercise of his own authority and pleasure respecting them, yet he, the said Hastings, did authorize a violent compulsion to be used towards the said Nabob for accomplishing an universal confiscation of that species of landed property; and in so doing he did also compel the Nabob to break his faith with all the landholders of that description, not only in violating the assurance of his own original grants, but his assurance recently given, when, being pressed by the Company, he, the Nabob, had made a temporary seizure of the profits of the lands aforesaid, in the manner of a compulsory loan, for the repayment of which he gave his bonds and obligations; and although he had at the same time sol-

emnly pledged his faith that he never would again resort to the like oppressive measure, yet he, the said Warren Hastings, did cause him to be compelled to confiscate the estates of at least sixty-seven of the principal persons of his country, comprehending therein his own nearest relations and the ancient friends and dependants of his family: the annual value of the said estates thus confiscated amounting to 435,000*l.* sterling, or thereabouts, upon an old valuation, but stated by the Resident, Middleton, as being found to yield considerably more.

XXXV. That the violent and unjust measure aforesaid, subversive of property, utterly destructive of several ancient and considerable families, and most dishonorable to the British government, did produce an universal discontent and the greatest confusion throughout the whole country, — the said confiscated lands being on this occasion put to rack-rents, and the people grievously oppressed: and to prevent a possibility of redress, at least for a considerable time, the said confiscated estates were mortgaged (it appearing otherwise impracticable to make an approach towards satisfying the exorbitant demands of the said Hastings) for a great sum to certain usurious bankers or money-dealers at Benares.

XXXVI. That, besides these enormous demands, which were in part made for the support of several corps of troops under British officers which by the treaty of Chunar ought to have been removed, very large extra charges not belonging to the military list of the said Nabob, and several civil charges and pensions, were continued, and others newly put on since

the treaty of Chunar, namely, an allowance to Sir Eyre Coote of 15,554 rupees per month, (being upwards of 18,664*l.* sterling a year,) and an allowance to Trevor Wheler, Esquire, of 5,000 rupees per month (or 6,000*l.* sterling and upwards a year); and the whole of the settled charges, not of a military nature, to British subjects, did amount to little less than 140,000*l.* yearly, and, if other allowances not included in the estimate were added, would greatly exceed that sum, besides much more which may justly be suspected to have been paid, no part whereof had at that time been brought forward to any public account.

XXXVII. That the commander of one of these corps, of whose burden the said Nabob did complain, was Lieutenant-Colonel Alexander Hannay, who did farm the revenues of certain districts called Baraitch and Goruckpore, which the said Hastings, in the ninth article of his instructions to Mr. Bristow, did estimate at twenty-three lacs of rupees, or 230,000*l.*, per annum: but under his, the said Hannay's, management, the collections did very greatly decline; complaints were made that the countries aforesaid were harassed and oppressed, and the same did fall into confusion, and at last the inhabitants broke out into a general rebellion.

XXXVIII. That the far greater part of the said heavy list was authorized or ordered by him, the said Warren Hastings, for the purpose of extending his own corrupt influence: for it doth appear, that, at the time when he did pretend, in conformity to the treaty of Chunar aforesaid, to remove the Company's

servants, "*civil* and military, from the court and service of the Vizier," he did assert that he thereby did "diminish *his own influence*, as well as that of his colleagues, by narrowing the line of *patronage*"; which proves that the offices, pensions, and other emoluments aforesaid, in Oude, were of *his* patronage, as his patronage could not be diminished by taking away the said offices, &c., unless the same had been substantially of his gift. And he did, at the time of the pretended reformation aforesaid, express both his knowledge of the existence of the said excessive and abusive establishments, and his sense of his duty in taking them away: for in agreeing to the article in the treaty of Chunar for abolishing the said establishments, he did declare himself "actuated solely by motives of *justice* to the Nabob, and a regard to *the honor of our national character*"; and, according to his own representation, the said servants of the Company, civil and military, "by their numbers, their influence, and the *enormous amount* of their salaries, pensions, and emoluments, were an *intolerable* burden on the revenues and authority of the Vizier, and exposed us to *the envy and resentment of the whole country*, by excluding the native servants and adherents of the Vizier from the rewards of their services and attachment."

XXXIX. That the revenue of the country being anticipated, mortgaged, and dilapidated, by the counsel, concurrence, connivance, and influence, and often by the direct order of the said Warren Hastings, the whole civil government, magistracy, and administration of justice gradually declined and at length totally ceased through the whole of the vast provinces

which compose the territory of Oude, and no power was visible therein but that of the farmers of the revenue, attended by bodies of troops to enforce the collections; insomuch that robberies, assassinations, and acts of every description of outrage and violence were perpetrated with impunity, — and even in the capital city of Lucknow, the seat of the sovereign power, there was no court of justice whatever to take cognizance of such offences.

XL. That the said Warren Hastings, when he did interfere in the government of Oude, was obliged by his duty to interfere for the good purposes of government, and not merely for the purpose of extorting money therefrom and enriching his own dependants, — which latter purpose alone he did effect, in the manner before mentioned, but not one of the former. For the said Hastings, having procured the extraordinary powers given by and to himself by his delegation of the 3d of July, 1781, did declare the same to be for the purpose, among many others, "of assisting the Nabob Vizier in forming such regulations as may be necessary for the peace and good order of his government and the improvement of his revenue." And in consequence of the said powers, the said Warren Hastings did, in the treaty of Chunar, obtain an article from the Nabob by which the said Nabob did promise to attend to his advice in the reformation of his civil administration; and he did give certain instructions to the Resident, Middleton, to which he did require him to yield *the most implicit obedience*, and did in one article thereof direct him to urge the Nabob to endeavor gradually, if it could not be done at once, to establish courts of *adawlut* [justice], and that

the *darogahs* chief criminal magistrates], *moulavies* [consulting or assistant lawyers], and other officers, should be selected by the ministers, with his, the Resident's, concurrence; and afterwards, in his instructions to the Resident Bristow, desiring him to pursue the same object, he declared his opinion, "that the want of such courts, and the extreme licentiousness occasioned thereby, is one of the most disreputable defects in his Highness the Nabob's government, and that, while they do not exist, every man knows the hazard which he incurs in lending his money"; but he did give him, the said Resident, no positive instruction concerning the same, supposing the estab lishment of such courts a matter of difficulty, and did therefore leave him a latitude in his proceedings therein.

XLI. That the said Resident Bristow did, however, in conformity to the said instructions, at last given with such latitude, endeavor to prevail on the said minister gradually to introduce courts of justice for the cognizance of crimes, by beginning to establish a criminal court under a native judge, to judge according to the Mahomedan law in the city of Lucknow. But Hyder Beg Khân, a minister of the said Warren Hastings's nomination, and solely dependent upon him, did elude and obstruct, and in the end totally defeat, the establishment of the same.

XLII. That the obstruction aforesaid, and the evil consequences thereof, were duly represented to the said Hastings; and though the said Hastings had made it the fourth article of a criminal charge against the Resident Middleton, "that he did not report to

the Governor-General, or to the board, the progress which he had made from time to time in his endeavors to comply with his instructions, and that, if he met with any impediments in the execution of them, he had omitted to state those impediments, and to apply for fresh orders upon them," yet he, the said Hastings, did give no manner of support to the Resident Bristow against the said Hyder Beg Khân, and did not even answer several of his letters, the said Bristow's letters, stating the said impediments, or take any notice of his remonstrances, but did at length revoke his own instructions, declaring that he, the said Resident, should not presume to act upon the same, and yet did not furnish him with any others, upon which he might act, but did uphold the said Hyder Beg Khân in the obstruction by him given to the performance of the first and fundamental duty of all government, — namely, the administration of justice, and the protection of the lives and property of the subject against wrong and violence.

XLIII. That the said Hastings did afterwards proceed to the length of criminating the Resident Bristow aforesaid for his endeavors to establish the said necessary court, as an invasion of the rights of the Nabob's government, — when, if the Nabob in his own proper person and character, and not the aforesaid Hyder Beg, (who was a creature of the said Hastings,) had opposed the reëstablishment of justice in the said country, it was the duty of the said Hastings to have pressed the same upon him by every exertion of his influence. And the said Warren Hastings, in his pretended attention to the Nabob's authority, when exercised by his, the said Hastings's, minister, to

prevent the establishment of courts of justice for the protection of life and property, at the same time that he did not hesitate, in the case of the confiscation of the jaghires, and the proceedings against the mother and grandmother of the Nabob, totally to supersede his authority, and to force his inclinations in acts which overturned all the laws of property, and offered violence to all the sentiments of natural affection and duty, and accusing at the same time his instruments for not going to the utmost lengths in the execution of his said orders, is guilty of an high crime and misdemeanor.

XLIV. That the said Hastings did highly aggravate his offence in discountenancing and discouraging the reëstablishment of magistracy, law, and order, in the country of Oude, inasmuch as he did in the eighth article of his instructions to the Resident order him to exercise powers which ought to have been exercised by lawful magistrates, and in a manner agreeable to law. And in the said article he did state the prevalence of rebellion in the said country of Oude, — as if rebellion could exist in a country in which there was no magistracy, and no protection for life or property, and in which the native authority had no force whatever, and in which he himself states the exercise of British authority to be an absolute usurpation; and he did accordingly direct a rigorous prosecution against the offence of rebellion under such circumstances, but "with a fair and impartial inquiry," when he did not permit the establishment of those courts of justice and magistracy by which alone rebellion could be prevented, or a fair and impartial inquiry relative to the same could be had; and par-

ticularly he did instruct the said Resident to obtain the Nabob's order for employing some sure means for apprehending certain zemindars, and particularly three, in the instruction named, whom he, the said Hastings, did cause to be apprehended upon what he calls good information, founded upon some facts to which he asserts he has the testimony of several witnesses, " that they had the destruction of Colonel Hannay and the officers under his command as their immediate object, and ultimately the extirpation of the English influence and power throughout all the Nabob's dominions," and that they did still persevere in their rebellious conduct without deviation, " though the Nabob's, and not our government, was then the object of it "; and he did direct the said Resident, if it should appear, " *on a fair and regular inquiry*, that their conduct towards the Nabob had been such as it had been reported to be, to insist upon the Nabob's punishing them with *death*, and to treat with the same rigor every zemindar and every subject who shall be the leader in a rebellion against his authority."

XLV. That the crime of the said Hastings, in his procedure aforesaid, was further highly aggravated by his having received information of several striking circumstances which strongly indicated the necessity of a regular magistracy and a legal judicature, from the total failure of justice, affecting not only the subjects at large, but even the reigning family itself, — as also of the causes why no legal magistracy could exist, and why the princes of the reigning family were not only exposed to the attacks of assassins, but even to a want of the protection which might be had from their servants and attendants, who were driven from

their masters for want of that maintenance which the princes, their masters, could not procure even for themselves. And the circumstances aforesaid were detailed to him, the said Hastings, by the Resident, Bristow, in a letter from Lucknow, dated the 29th January, 1784, to the Governor-General, the said Warren Hastings, and the Council of Bengal, in the terms following.

"The frequent robberies and murders perpetrated in his Excellency's, the Vizier's, dominions, have been *too often* the subject of my representations to your honorable board. From the total want of police, hardly a day elapses but I am informed of some tragical event, whereof the bare recital is shocking to humanity. About two months since, an attempt was made to assassinate Rajah Ticket Roy, the acting minister's confidential agent; but he happily escaped unhurt. Nabob Bahadur, *his Highness's brother*, has not been so fortunate, as will appear from translations of two of his letters to me, No. 1, which I have the honor to inclose for your information. Although my feelings are sensibly hurt and my compassion strongly excited by *the disgraceful and miserable state of poverty to which his Excellency's brothers are reduced*, yet, situated as I am, it is not in my power to interfere with effect. My efforts on a former occasion failed of success, *and my interposition now would only excite the resentment of the minister towards the unhappy sufferers, in consequence of their application to me, from whom* ALONE, *however, they hope for relief from their present distress*, which, their near connection with the Vizier considered, is both shameful and unprecedented. That no regular courts of justice have been established in this country is particularly pointed at

in my instructions, as the most disreputable defect in his Highness's government; yet the minister seems determined on abolishing even the shadow of so necessary an institution. The office of Chief Justice, as held by Moulavy Morobine, was ever nugatory, but now it is sunk into the lowest contempt. The original establishment, inadequate as it was, is mouldering away, and the officers now attached to it are literally starving, as no part of their allowance has been paid for above six months past. He himself has proposed to resign his appointment, being every way precluded from a possibility of exercising the duties of it."

XLVI. That it appears by the said letter, and the papers therewith transmitted, as well as other documents in the said correspondence, that, in consequence of the distress brought upon the Nabob's finances, certain of the princes, his brethren, the children of Sujah ul Dowlah, the late sovereign of the country, were put upon pensions unsuitable to their birth and rank, and by the mismanagement of the minister aforesaid, (appointed by the said Warren Hastings,) for two years together no considerable part of the said inadequate pension was paid; and not being able to maintain the attendants necessary for their protection in a city in which all magistracy and justice was abolished, they were not only liable to suffer the greatest extremities of penury, but their lives were exposed to the attempts of assassins: the condition of one of the said princes, called the Nabob Bahadur, being by himself strongly expressed in three letters to the said Resident Bristow, — the first dated the 28th of December, 1783; the second, the 7th of January, 1784; and the third, the 15th of January, 1784, — which letters

were duly transmitted, in the dispatch of the 29th of the same month, to Warren Hastings, Esquire, and are as follow.

"Your own servant carried you the account of what he himself was an eye-witness to, after the affair of last night. These are the particulars. About midnight my aunt received twelve wounds from a ruffian, of which she died. I also received six successive stabs, which alarmed the people of the house, who set up a shouting: whereupon the assassin run off. Besides being *without food or the means of providing any*, this misfortune has befallen me. *I am desirous of sending the coffin to your door.* It is your duty, both for the sake of God and of Christ, to execute justice, and to inquire what harm I have done to the murderer sufficient to deserve assassination, or even injury. *You now stand in the place of his Excellency the Vizier.* I request you will do me justice. What more can I say?

"P. S. I am also desirous to show you my wounds."

From the same, 29th [*7th?*] *January*, 1784.

"You have been duly informed of all the circumstances relative both to the murder of the innocent, and of my being wounded, as well by my former letter, as by the messenger whom you sent to inquire into the state of my health; and I have every reason to hope, from your known kindness, that you will not be deficient in seeking out the assassin. *I am at this moment overwhelmed in misfortune. Whilst the blood is flowing from my wounds, neither I nor my children nor my servants have wherewithal to procure subsistence;* nor have I it in my power either to purchase remedies

or to reward the physician: *it is for the sake of God alone that he attends me.* Thus loaded with calamity upon calamity, I am unable to support life; for I find no relief from any affliction either day or night. Do you now stand in the place of my father; grant me fresh life by speedy acts of benevolence.

"For these two last years his Excellency established a pension for me of twenty thousand rupees; but I never received the full amount of it, either last year or the year before. Should it, however, be paid me, though inadequate to my desires, I shall still be enabled to support myself. From the beginning of this year to the present time I have not received a farthing, nor do I expect any; though, if you afford protection to the oppressed, all my wishes will be accomplished. I was desirous of waiting on you with my family, that you might be an eye-witness to their condition; but I was advised not to stir out on account of my wounds. What more can I say?'

The following Extracts are made from the Third Letter from the same Prince, dated January 15, 1784.

"The particulars of the late and unforeseen misfortune with which I have been overwhelmed are not unknown unto you, — that the innocent blood of my aunt, *the prop and ruler of my family*, was shed, and in the same manner I, too, was wounded. Until now I feel the pain and affliction of my wounds; *and no person has regarded my solicitations for redress, sought after the assassin, and brought him to condign punishment, yourself excepted.*" — "In like manner as the Honorable Governor-General has adopted my brother Saadut Ali Khân for his son, and relieved him from

the vexation, affliction, and dependence of this place, would it be extraordinary that you also should, in your bounty and favor, consent to adopt me, who do not possess the necessaries of life, and permit me to attend you to whatever part of the world you may travel, whereby I shall at all times derive honor and advantage? Formerly us three brothers, Saadut Ali, Mirza Jungly, and I, the poor and oppressed, were, in the presence of our blessed father, whose soul rests in heaven, treated alike. Now the ministers of this government put me upon a footing with our younger brothers, who have lately left the zenanah, and whose expenses are small. On this scale, which is in every respect insufficient for my maintenance, they pay *the pitiful allowance only when it is their pleasure to do it.* My situation has for years past been increasing in wretchedness to a degree that *I am in want of daily bread, and my servants and animals are dying of hunger. My distresses are so great that I have not been able to pay a daum to the surgeons for the cure of my wounds; and they, too, are discouraged from affording me their assistance or furnishing me with medicines.* How, then, is it possible for me to exist? Considering you as my patron, participating in my afflictions, I have represented the circumstances concerning my situation; and I hope, from your friendship, that you will honor me with a favorable answer."

XLVII. The Resident, Bristow, did also receive a strong application from three others of the brethren of the reigning sovereign, called Mirza Hyder Ali, Mirza Ennayut Ali, and Mirza Syef Ali, representing their very pitiable case, in a letter of the 9th of March, 1783, in which, among other particulars, are contained the following.

"Our situation is not fit to be represented. *For two years we have not received a hubba* on account of our tuncaw [assignment on the revenue], though the ministers have annually charged a lac of rupees, and never paid us anything. *After all, we are the sons of Sujah ul Dowlah!* It is surprising, having such a friend as you, our situation is arrived at that pass that we should be in distress for *dry bread and clothes.* Whereas you have done many generous acts, be pleased so to show us your favor, that by some means we may receive our allowances from the Company's treasury, and not be obliged to depend upon and solicit others for it."

XLVIII. That one of the princes aforesaid, called the Mirza Jungly, about the beginning of the year 1783, was obliged to fly from the dominions of the Nabob of Oude, and to leave his country and connections; and as the Resident, Bristow, writing from Lucknow, hath observed, "he went to try his fortune at other courts, in preference to starving at home, which might have been his fate, by all accounts, at this place." And the said prince sought for succor at the court of one of the neighboring Mahomedan princes; but conceiving some disgust at the treatment he met with there, he departed from thence, and on the 8th of February, 1783, arrived at the Mahratta camp, while David Anderson, Esquire, was there in the character of Minister Plenipotentiary to the Company, with a view, if his reception there should not prove answerable to his wishes, to pass on to the southward. And the said Anderson, probably considering this event as of very great importance to the honor of the British government, as well as to its interest, on

the one hand, by exhibiting the son and brother of a sovereign prince, from whom the Company had received many millions of money, a fugitive from his country, and a wanderer for bread through the courts of India, and, on the other, the consequences which might arise from the Mahrattas having in their possession and under their influence a son of the late Nabob of Oude, did without delay advise Warren Hastings, Esquire, of the event aforesaid; and he did also write to Mr. Bristow, the Resident at the court of the Nabob Vizier, several letters, of the 9th and 20th of February, and of the 6th of March and 6th of April, 1783, in order that some steps should be taken for his return and establishment in his own country. And the said Anderson did inform the Resident, Bristow, in his letter aforesaid, that, on the arrival of the fugitive prince, brother of the reigning sovereign of Oude, at the Mahratta camp, he did cause his tent to be pitched close to that of Mr. Anderson; but finding this not agreeable to the Mahratta general, Sindia, he afterwards removed: and that he showed a strong attachment to the English, and was inclined to throw himself upon their generosity; that he was desirous of going to Calcutta, and declared, that, if he, the said Anderson, "would give him the smallest encouragement, he would quit all his followers, and come alone, and would take up his residence under his protection." And the said Anderson did declare, that he thought it "would be policy, and much to the credit of our government, that some provision should be made for Mirza Jungly in our territories."

XLIX. That the said Bristow did represent the aforesaid circumstances to Hyder Beg Khân, minister

to the Nabob of Oude, declaring it his opinion, "that his Highness's brother's thus taking refuge with a foreign prince is a reflection upon the Vizier, and it would be advisable that an allowance should be granted to him upon the footing of his brothers, that he might remain in the presence." But the Nabob was induced to refuse to his brother any offer of any allowance beyond the two hundred pounds per month, allowed, but not paid, to his other brothers, — and which the said prince did observe to Mr. Anderson, "that it was not only inadequate to his expenses, but infinitely less" (as the truth was) "than what his Excellency has settled on many persons of inferior rank, who have not so good a claim to his support; and that it would not be sufficient to enable him to live at Lucknow, where all his friends and relations were, and so many of his inferiors lived in a state of affluence." In case, therefore, it could not be increased, he requested leave to live in the Company's provinces, or at Calcutta; for that in any of these situations "he could with less difficulty regulate his expenses." And he did declare, that, if his request was granted to him, he would immediately quit all his prospects with Sindia. To these propositions he received a very discouraging answer from his brother's minister, containing a positive and final refusal of any increase of allowance, obtaining only the Nabob's permission to retire into the Company's provinces. But Mr. Anderson did not think himself authorized to take any steps for the prince's retreat into the said province without Sindia's concurrence, who, he observed, would use every art to detain him, and accordingly did offer him the command of a battalion of infantry to be paid directly from his own treasury, and six thousand pounds ster

ling a year for keeping up a corps of horse, and to settle upon him a landed estate of four thousand pounds a year as a provision for his wife and children: which honorable offers it appears he did accept, and did and doth remain in the Mahratta service.

L. That, during the whole course of this transaction, the said Warren Hastings was duly advised thereof, first by a very early letter from the said Anderson, and afterwards by the Resident, Bristow, who, on the 23d of April, 1783, transmitted to him his whole correspondence with Mr. Anderson. But what answer or instructions the said Warren Hastings did give to Mr. Anderson does not appear, he not having recorded anything upon that subject; but it appears that to the Resident, Bristow, who required to be informed whether the reception of the fugitive prince aforesaid in the Company's provinces would meet his approbation, he gave no answer whatsoever: by which criminal neglect, or worse, with regard to a brother of an ally of the Company, who showed a strong attachment and preference to the English nation, and by suffering him, without any known effort to prevent it, to attach himself to the cause and fortunes of the Mahrattas, who, he, the said Hastings, well knew, did keep up claims upon several parts of the dominions of Oude, and had with difficulty been persuaded to include the Nabob in the treaty of peace, he, having suffered him first to languish at home in poverty, and then to fly abroad for subsistence, and afterwards taking no step and countenancing no negotiations for his return from his dangerous place of refuge, at the same time that several of his, the said Hastings's, creatures had each of them allowances much more

considerable than would have sufficed for the satisfaction and comfort of him, the said fugitive prince, was guilty of a high crime and misdemeanor.

LI. That the indigent condition before related of the other brothers of the Nabob was also duly transmitted to the said Warren Hastings; but he did never order or direct any steps whatsoever to be taken towards the relief of the family of a reigning prince, who were daily in danger of perishing by famine through the effect of his measures, and those of a person whom he supported in power against the will and inclinations of the said prince and his family.

LII. That the foregoing instances of the penury, distress, dispersion, and exile of the reigning family, as well as the general disorder in all the affairs of Oude, did strongly enforce the necessity of a proper use of the British influence (the only real government then existing) in the province aforesaid for a regulation of the economy of the Vizier's court, as well as for the proper administration of the public concerns, civil and military, which were in the greatest disorder; and the said Warren Hastings was under obligation to provide for the same, and did himself understand it to be his duty so to do, and that he was therein warranted by the spirit of the treaty of Chunar, as well as by other universal powers of control, and even of supersession, supposed by him to exist in the relation between the British government and that of Oude; and accordingly he did, in his instructions to the Resident Middleton, to which he required his most implicit obedience, direct him to an interference in and control upon all the affairs concerning the rev-

enues, the military arrangements, and all the other branches of the Nabob's government.

LIII. That, upon his recall of the said Middleton, he, in his instructions to the Resident Bristow, dated 23d of October, 1781 [1782 ?], did at large set forth the situation of the court and government of Oude, the situation and character of the Nabob, of the acting minister, and of the British Resident at that court, and did plainly, distinctly, and without reserve, describe the extent of the authority to be exercised by the last of these persons, as well as the unqualified compliance to be expected from the two former. And he did accordingly declare, that, "*from the nature of our connection with the government of Oude*, and from the Nabob's incapacity, *a necessity will forever exist*, while we have the claim of a subsidy upon the resources of his country, of exercising an influence, and frequently substituting it *ENTIRELY in the place of an avowed and constitutional authority, in the administration of his* [*the Nabob's*] *government*"; and he did further in the said instructions, namely, in instruction the fourth, direct the said Resident in the words following: "I must have recourse to you for the introduction of a *new* system in that government; nor can I omit, whilst I express my reliance on you for that purpose, to repeat the sentiments which I expressed in the verbal instructions which I gave you at your departure, *that there can be no medium in the relation between the Resident and the minister, but either the Resident must be the slave and vassal of the minister, or the minister at the absolute disposal of the Resident.*" And he, the said Hastings, did state, in the same article of the instructions aforesaid, that, though the conduct of the

said Hyder Beg Khân had been highly reprehensible, and that he was much displeased thereat, he would prefer him to any other, on account of his ability and knowledge of business, with the following proviso, — "If he would submit to hold his office on such conditions as I require. He exists by his dependence on the influence of our government. It must be advisable to try him by the mode of conciliation; at the same time that in your *final conversation with him* it will be necessary to declare to him, *in the plainest terms*, the footing and condition on which he shall be *permitted* to retain his place, with the alternative of a dismission, and a scrutiny into his conduct, if he refuses it. In the first place, I will not receive from the Nabob, *as his*, letters dictated by *the spirit of opposition;* but shall consider every such attempt *as an insult on our government.* In the second place, I shall expect that *nothing* is done in his official character but with your knowledge and participation."

LIV. That the said Hastings having described, in the manner aforesaid, the relative situation of the Resident and the minister, he did state also the relative situation of the said minister and his master, the Nabob, declaring, "that the minister did hold *without control* the unparticipated and entire administration, with all the powers annexed to that government, — *the Nabob being, as he ever must be in the hands of some person, a mere cipher in his*" (the minister's). And having thus stated the subordination of the minister to the Resident, and the subordination of the Nabob to the minister, he did naturally declare, "that the first share of the responsibility would rest upon the said Resident." And he did further declare, "that

the other conditions did follow distinctly in their places, because he did *consider the Resident as responsible for them.*"

LV. That, for the direction of the Resident in the exercise of so critical a trust, wherein all the true and substantial powers of government were in an inverted relation and proportion to the official and ostensible authorities, and in which the said Hastings did suppose the necessity constantly existing for exercising an influence, and frequently for substituting *entirely* the British authority "in the place of the avowed and constitutional government," he, the said Hastings, did properly leave to the Resident a discretionary power for his deviation from any part of his instructions, — interposing a caution for his security and direction, that, as much as he could, he would leave the subject free for his, the said Hastings's, correction of it, and would instantly inform him or the board, according to the degree of its importance, with his reasons for it.

LVI. That, besides the institution of the courts of justice, as before recited, four other principal objects in the reformation of the affairs of Oude were expressly recommended to the Residents Middleton and Bristow, and must be understood to be the conditions upon which the said Hastings must have meant to have it understood that the acting minister of Oude was to hold his employment: namely, the limitation of the Nabob's personal expenses; the reduction of the Nabob's troops in number, and the change in arrangement; the appointment of proper collectors for the revenues; and the appointment of proper officers for all parts of the executive administration.

LVII. That the first object, namely, that of the limitation of the Nabob's personal expenses, and separating them from the public establishments, he, the said Hastings, did state as the first and fundamental part of his regulation, and that upon which all the others would depend, — and did declare, "that, in order to prevent the Vizier's alliance from being a clog instead of an aid to the Company, *the most essential* part is to *limit* and *separate* his personal disbursements from the public accounts: *they must not exceed* what he has received in any of the last three years." And as to the public treasury and disbursements, he, the said Hastings, did, in the said instructions, wholly withdraw them from the personal management or interference of the Nabob, and did expressly order and direct "that they should be under the *sole* management of the ministers, with the Resident's concurrence." And on the appointment of the Resident Bristow, in October, 1782, he, the said Hastings, did order and direct him in every point of the instructions to Middleton not revoked or qualified by his then instructions, to which he did require his, the said Resident Bristow's, "most attentive and literal obedience."

LVIII. That the said Resident Bristow did, in consequence of the renewal to him of the said instructions as aforesaid, endeavor to limit and put in order the Nabob's expenses; but he was in that particular traversed and counteracted, and in the end wholly defeated, by the minister, Hyder Beg Khân. And though the obstructions aforesaid, agreeably to the instructions given to Middleton, and to him, the said Bristow, were represented to the said Warren Hastings by the Resident aforesaid, yet the said War

ren Hastings did give no kind of support to the said Resident, or take any steps towards enabling him, the said Resident, to effectuate the said necessary limitation and distribution of expenses, by himself, the said Hastings, ordered and prescribed; nor, if he disapproved the proceedings of the said Resident, did he give him any instruction for the forbearance of the same, or for the exerting his duty in any other mode; nor did he call for any illustration from him of anything doubtful in his correspondence, nor state to him any complaint made privately of his conduct, in order to receive thereon an explanation; but he did leave him to pursue at his discretion the extensive powers before described, to effect the reformation which he was directed to accomplish, under the responsibility denounced to him as aforesaid, if he should fail therein, as he was supposed to be substantially invested with all the powers of government.

LIX. That, instead of the said support or instruction, he, the said Hastings, did countenance, or more probably cause or direct, a representation to be made to him by the acting minister of the Nabob of Oude, complaining grievously of the proceedings of the Resident aforesaid, as usurpations on the Nabob's authority and indignities on his person. And although he, the said Hastings, did instruct the Resident, Bristow, to inform the said Hyder Beg Khân that he would not receive from the Nabob, as *his*, letters directed by the spirit of opposition, but should consider every such attempt as his, the minister's, as an insult on our government, yet he did receive as *his* the Nabob's own letters, and as written from the impressions on his own mind, and as the suggestions of his own judg-

ment, letters to the same effect as those written by the minister, although he had declared upon record that the said "Nabob was a mere cipher in his, the said minister's, hands," and "that he had dared to use both the Nabob's name, and even his seal, affixed to letters either directed to the Nabob or written as from him without his knowledge," and although he did assert or record as aforesaid, that, in a letter which he had lately received from the Nabob, the minister had the presumption to make the Nabob declare that which was *true* to be *false*, and that "his *making use* of the Nabob in such a manner did show how thin the veil was by which *he* covered *his own acts*, and that such artifices would only tend to make them the more criminal from *the falsehood and duplicity with which they were associated.*"

LX. That the said Hastings did act upon the letters pretended to be written by the Nabob, as well as on those actually written by the minister, without previously communicating the matter of the said complaint to the said Resident, and did give credit to the same, and coming, as aforesaid, from a person by himself, the said Hastings, charged with artifice, falsehood, and duplicity, and with abusing to his own evil purposes the name and seal of his master without his knowledge, and without any previous inquiry into the facts and circumstances; and did thereon ground an accusation against the said Resident, Bristow, before the board at Calcutta, in which he did represent the conduct of the said Bristow, in attempting to limit the household expenses of the Nabob, as an indignity "which no man living, however mean his rank in life, or dependent his condition in it, would permit to be

exercised by any other, but with the want or forfeiture of every manly principle." And he did further accuse the said Bristow for that, in his proceedings in the regulation of the Nabob's household, "he should receive to himself, or Mr. Cowper for him, or a treasurer for both, (for the arrangement has never been well defined,) the money assigned for the support of the Nabob's household, — issue it as he pleased, not to the Nabob, but to the menial officers of his household, — dispose of his superfluous horses, and other cattle, — determine how many elephants were necessary to the state of the Vizier of the Empire, the number of domestics for his attendance, and pry into the kitchen for the purpose of ascertaining the quantity of victuals which ought to be dressed in it, — control the accounts of these disbursements, — and appropriate to his own use (for that the consequence was inevitable, if he chose it) the residue produced by those economical retrenchments."

LXI. That the said charge is malicious and insidious; because the attempt to introduce proper officers for the management of household expenses so considerable that the said Hastings has stated the allotment for the same at three hundred thousand pounds sterling yearly, and that other accounts have carried it to four hundred thousand pounds sterling and upwards, and to keep proper and regular accounts thereof, was a necessary regulation, and agreeable to the dignity of the Nabob, and by no means a degradation either of his person or authority, which was specially provided for in the regulations, as no expense could be incurred but by his own personal warrant under his sign manual; nor doth there appear therein any-

thing but what is of absolute necessity to prevent embezzlement to his prejudice. And the said Hastings hath declared, in the fifth article of the instructions to the said Resident, that *no* administration can be properly conducted without regular offices; and that in the whole province of Oude "there was *not one*, the *whole* being engrossed by the minister": of which minister, in the fourteenth article, he declares his suspicion that the Nabob did not receive the whole and punctual payment of the sum assigned for the purpose of the household, but that some part had been by him withheld from the Nabob; and that, from private information he had lately received, he had reason to believe that this was actually the case. And the said Hastings well knew that the Nabob's household had been ill conducted, that the allowances of his servants had not been paid, that his distress was scandalous, and that his nearest relations were in a famishing condition; and the said Hastings did also well know that the household of the Nabob was provided for or neglected, not at his own discretion, but at that of the said Hyder Beg Khân; and he did, in the fourteenth article aforesaid, instruct the Resident, Bristow, to show every ostensible and external mark of respect to the Nabob, in order to induce him to become himself the mover of every act necessary for the advancing of his own interests and the discharge of his debts to the Company,—declaring, "that they never could be effected while the minister retained that ascendency over him which he at present holds by the means of a nearer and more private intercourse, and by affecting to be the mediator of his rights against the claims of our government." And the said Hastings did further well know that there

was no way of ascertaining the payment of the assignments for the Nabob's household, either for the general purposes of their destination or to the particular objects to which they ought to be applied, without regular offices of receipt and of account, which might prevent the said minister, Hyder Beg Khân, or the British Resident, or any other, from embezzling or misapplying the same. But the total want of offices aforesaid in every department of government did furnish occasion of concealing all frauds, clandestine presents, or pensions to a Governor-General, Commander-in-Chief, or other servant of the Company.

LXII. That the said Warren Hastings, who did pretend so deep a concern for the indignities supposed to be suffered by the Nabob merely in the limitation and regulation of unnecessary expenses relative to his kitchen, domestics, &c., did show no attention or compassion to the said Nabob, when, in the year 1779, the said Nabob represented, that the pensions of his old servants for thirty years, the expenses of his family and kitchen, together with the jaghires of his grandmother, mother, and aunts, and of his brothers and dependants, given for their support, were not *regulated*, but *stopped*.

LXIII. That the other articles of regulation, namely, the reform of the troops in number and in arrangement, the appointment of proper collectors for the revenues, and the general constitution of offices for the executive administration, were in like manner totally defeated by the said Hyder Beg Khân. And the said Hastings did receive a charge from him, and did adopt it as his own, representing the endeavors

of the Resident to act in the regulations aforesaid agreeably to the spirit of his instructions, and in confidence of the powers vested in and the responsibility imposed upon him, the said Resident, as usurpations of the authority and prerogative of the Nabob; and he, the said Hastings, did make criminal charges thereon against the said Resident, Bristow, of which charges the Council Board did, on hearing the same, and the defence of the said Bristow, fully acquit him.

LXIV. That the said Hastings, by abetting Hyder Beg Khân, a person described by him as aforesaid, in his opposition to all the plans of necessary reformation proposed by the said Hastings himself, and having suggested no other whatever in lieu thereof, to answer the purposes for which he had stipulated in the treaty of Chunar the interference of the Resident in every branch of the Nabob's government, did thereby frustrate every one of the good ends proposed by him in the said treaty of Chunar, and did grossly abuse his trust in giving the exorbitant powers before recited, and asserting them to exist in the British Resident, without suffering them even in appearance to answer any of the proper and justifiable ends for which any power or influence can or ought to exist in any government.

LXV. That there is just ground to violently presume that not only the letters in the name of the Nabob aforesaid were dictated to him by his minister, Hyder Beg Khân, in whose hands the said Hastings has described his master to be "a mere cipher," &c., but which Hyder Beg was the known instrument of the said Hastings, but that the conduct and letters of

complaint of the said Hyder Beg were in effect and substance prescribed and dictated to him by the said Warren Hastings, or his secret agent, Palmer, by his direction: because it is notorious that the powers of the said Hyder Beg were solely supported by him, the said Hastings, who, according to the state of favor or displeasure in which he stood, hath frequently promised him support or threatened him with dismission and punishment, and therefore it is not to be thought that he would take so material a step as to oppose the Company's Resident, acting under the instructions of the Governor-General and Council, and to accuse him with so much confidence, and in a manner so different from the usual style of supplication on all other occasions employed by that court, if he had not been previously well assured that his writing in that manner would be pleasing to the person upon whom he solely depended for his power, his fortune, and perhaps for his life; — secondly, because, when it suited the purposes of the said Hastings on a former occasion, that is, in the year 1784 [1781?], to remove the Resident Bristow aforesaid from his office, a letter from the Nabob was laid before the Council Board at Calcutta, proposing, that, in order to prevent the effects of the said Bristow's application to Europe for redress, the said Hastings should send him drafts of letters which he, the said Nabob, would write in his own name and character to the King, to his Majesty's ministers, and to the Court of Directors, expressing himself, in the letter aforesaid, in the words following, viz., "To prevent his [Bristow's] applying to Europe, send me, if *you* think proper, the drafts of letters which *I* may write to the King, the Vizier, and the chiefs of the Company"; — thirdly, that, though the said Hastings,

and his secret agent, Palmer, did pretend and positively assert that they had no share in the letters aforesaid from the Nabob and his minister, there was an original note to the Nabob's letters of accusation, referring to distinct parts and specified numbers of the agent Palmer's secret correspondence with the said Warren Hastings, and the said letter, with the said reference, was, through inadvertence, laid before the board.

LXVI. That the said Warren Hastings, having thrown the government of Oude into great confusion and distress, and thereby prevented the discharge of the debt, or pretended debt, to the Company, did, by all the said intrigues, machinations, and charges, aim at the filling the said office of Resident at Oude with his own dependants or by himself personally; as it appears that he did first propose to place in the said office his secret agent, Palmer, and that afterwards, when he was not able to succeed therein, he did propose nominally to abolish the said office, but in effect to fill it by himself, — proposing to the Council and rendering himself responsible (but not in fortune) for the payment of the Company's debt within a certain given time, if he were permitted and commissioned by the Council to act for the board in that province, and did inform them that he was privately well assured that in a few days he should receive an invitation to that effect; and he did state, (as in the year 1781 he had stated as a reason for his former delegation,) "that the state of the country was so disordered in its revenue and administration, and the credit and influence of the Nabob himself so much shook by *the late usurpation* of his authority, and the

contests which attended it, as to require the accession of an extraneous aid to restore the powers and to reanimate the constitution of his government," — although he, the said Hastings, did for a long time before attribute the weakness of his government to an extraneous interference. And the said Council, on his engagement aforesaid, did consent thereto; and he did accordingly receive a commission, enabling him to act in the affairs of Oude, not only as the Resident might have done, but as largely as the Council-General might legally delegate their own powers.

LXVII. That the said Warren Hastings, in accepting the said commission, did subject his character and the reputation of his office to great imputations and suspicions, by taking upon himself an inferior office, out of which another had upon his intrigues been removed by a perpetual obstruction which rendered it impossible for him to perform his duty or to obey his instructions; and he did increase the said grounded suspicions by exercising that office in a government from whence it was notorious he had himself received an unlawful gift and present from the ministers, and in which he had notoriously suffered many, and had himself actually directed some, acts of peculation, by granting various pensions and emoluments, to the prejudice of the revenue of a distressed country, which he was not authorized to grant.

LXVIII. That the said Warren Hastings did proceed unto the said province of Oude under color of providing a remedy for the disorders described to be existing in the same, and for the recovery of the

Company's pretended debt. And the said Warren Hastings, who had thought fit to recall the Company's Resident, appointed to that office by the Court of Directors, and to suspend his office, did, notwithstanding, of his own choice and selection, and on his own mere authority, take with him in his progress a large retinue, "and a numerous society of English gentlemen to compose his family," which he represents as necessary, although, in a letter from that very place to which he took that very numerous society, he informs the Court of Directors "that his own consequence and that of the nation he represents are independent of show." And after his arrival there, he, the said Warren Hastings, did write from Lucknow, the capital of that province, a letter, dated the 30th of April, 1784, to the Court of Directors, in which are several particulars to the following purport or tenor, and which he points out to the Directors "to be circumstances of no trivial information," namely, — "that he had found that the lands in that province, as well as in some parts more immediately under the Company, have suffered in a grievous manner, being completely exhausted of their natural moisture by the total failure of one entire season of the periodical rains," with a few exceptions, which were produced only "by the uncommon labor of the husbandman." And in a letter to Edward Wheler, Esquire, a member of the Council-General, from Benares, the 20th of September, 1784, he says, that "*the public revenues* had declined with the failure of the cultivation *in three successive years;* and all the stores of grain which the *providence* of the husbandmen, (as he was informed is their *custom*,) in defiance of the *vigilance* of the aumils [collectors], *clandestinely*

reserved for their own use, were of course exhausted, in which state no person would accept of the charge of the collections on a positive engagement; nor did the rain fall till the 10th of July." And in another letter, dated from Benares, the 1st of October following, he repeats the same accounts, and that the "country could not bear further additions of expense: that it had *no inlets of trade* to supply the issues that were made from it" (the exceptions stated there being inconsiderable); "therefore *every rupee* which is drawn into your treasury [the Company's] from its circulation will accelerate the period at which its ability must cease *to pay even the stipulated subsidy*." Notwithstanding this state of the country, of which he was well apprised before he left Calcutta, and the poverty and distress of the prince having been frequently, but in vain, represented to him, in order to induce him to forbear his oppressive exactions, he did, in order to furnish the Council with a color for permitting him to recall the Company's Resident, and to exercise the whole powers of the Company in his own person, without any check whatsoever, or witness of his proceedings, except the persons of his own private choice, make the express and positive engagement aforesaid, which, if understood of a real and substantial discharge of debt for the relief of the total of the Company's finances, was grossly fallacious: because at the very time he must have been perfectly sensible, that, in the then state of the revenues and country of Oude, (which are in effect the Company's revenues and the Company's country,) the debt or pretended debt aforesaid, asserted to be about five hundred thousand pounds, or thereabouts, could not be paid without contracting another debt at an usurious interest,

without encroaching on the necessary establishments or on private property or on the pay of the army, or without grievous oppression of the country, or all these together. And it doth appear that one hundred thousand pounds towards the said payment of debts was borrowed at Calcutta by the Nabob's agent there, but at what interest is not known; it appears also that other sums were borrowed for arrear of the interest, on which forty thousand pounds sterling appears in the Company's claims for the current year, and that various deductions were made from the jaghires restored to the Begums, as well as other parts of the Nabob's family; and it did and doth appear that an arrear is still due to the old and new brigade, — but whether the same be growing or not doth not appear: yet he hath not hesitated to assert that he had "provided for the *complete* discharge, in *one* year, of a debt contracted by *the accumulation of many*, and from a country whose resources have been wasted and dissipated by three successive years of drought and one of anarchy." But the said Hastings never did even realize the payments to be made in the first year, (as he confesses in the said letter,) except by an anticipation of the second; and though he states in his letter aforesaid the following facts and engagements, that is to say, "*that a recovery of so large a part of your property* [the Company's] will afford a seasonable and substantial relief to the necessities of your government, and enable it (for such is my confident hope) *to begin on the reduction of your debt at interest* before the conclusion of this year (I mean the year of this computation)." Whereas the said Warren Hastings did apply the whole produce of the revenue to the mere pay of some part of the

British army in Oude; and did not mention in his correspondence that he had remitted any money whatsoever to Calcutta, nor to any other place, (except the fifty thousand pounds taken from Almas Ali Khân, and said to be remitted to Surat,) for the said "substantial relief," in consequence of the said pretended "recovery of property," — admitting that it had been suggested to him, and not by him denied, that he had "disappointed the popular expectation by not adopting the policy which he had, *on the conception of better grounds*, rejected; nor did he begin the reduction of the interest debt" at the time stated, nor at any time; but the whole (he well knowing the state of the country from whence the resources aforesaid were by him promised) was a premeditated deceit and imposition on the Board of Council, his colleagues, and on the Court of Directors, his masters.

LXIX. That no traces of regulation appear to have been adopted by the said Warren Hastings during his residence at Lucknow, in conformity to the spirit and intentions of the treaty of Chunar, or of his instructions to Middleton and Bristow, or of the proposed objects of his own commission. But he did, in lieu thereof, pretend to free the Nabob's government from the interference of the Company's servants, and the usurpation (as he called it) of a Resident, and thereby to restore it to its proper tone and energy; whereas the measures he took were such as to leave no useful or responsible superintendence in the British, and no freedom in the Nabob's government: for he did confirm the sole, unparticipated, and entire administration, with all the powers annexed to

the government, on the minister, Hyder Beg Khân, to whom he *prevailed* on the Nabob Vizier to commit the entire charge of his revenues, although he knew that his master was a cipher in his hands, — that he "had affixed his seal to letters written without his knowledge, and such as evidently tended to promote Hyder Beg Khân's influence and interest," — that his said master did not consider him as a minister of his choice, but as an instrument of his degradation, — that "he exists as a minister by his dependence on the Calcutta government, and that the Nabob himself had no other opinion of him, — that it is by its *declared* and most *obvious* support *alone* that he could maintain his authority and influence." And in his instructions to his secret agent, Major Palmer, dated 6th of May, 1782, to ease his mind and remove his jealousy with regard to British interference, he did instruct him, "that much delicacy and caution will be required in your declarations on this subject, lest they should be construed to extend to an immediate change in the administration of his affairs, or the instruments of it. Their persons must be considered as *sacred, while* they act with the *participation of our influence.* This distinction the Nabob *understands;* nor will it be either necessary or proper to allude to it, unless he himself should first introduce the subject." And the said Hastings did assume, as to a dependant of the lowest order, to prescribe to him the conditions on which he is to hold his place, — to threaten him with scrutinies into his conduct, with dismission, with punishment, — that he was guilty of falsehood and duplicity, and that he had made his master assert what was true to be false, — that he suspected he had withheld from his master what he ought to have paid to him, — that

the event of his having *prevailed* on the Nabob to intrust him as aforesaid was, according to his, the said Hastings's, own letter, written to the said Hyder Beg Khân himself, "an accumulation of distress, debasement, and dissatisfaction to the Nabob, and of disappointment and disgrace to me. Every measure which he had himself proposed, and to which he had solicited my assistance, has been so conducted as to give him cause of displeasure; there are no officers established by which his affairs could be regularly conducted; mean, incapable, and indigent men have been appointed aumils of the districts, without authority, and without the means of personal protection; some of them have been murdered by the zemindars, and those zemindars, instead of punishment, have been permitted to retain their zemindaries with independent authority; all the other zemindars suffered to rise up in rebellion, and to insult the authority of the sircar, without any attempt made to suppress them; and the Company's debt, instead of being discharged by the assignments, and extraordinary sources of money provided for that purpose, is likely to exceed even the amount at which it stood at the time in which the arrangement with his Excellency was concluded. *The growth of these evils was early made known to me, and their effects foreboded in the same order and manner as they have since come to pass.* In such a state of calamity and disgrace, I can no longer remain a passive spectator; nor would it be becoming to conceal my sentiments, or qualify the expression of them. I now plainly tell you, that you are answerable for every misfortune and defect of the Nabob Vizier's government." And after giving orders, and expressing some hopes of better behavior, he adds,

"If I am disappointed, you will impose on me the painful and humiliating necessity of acknowledging to him that I have been deceived, and of recommending the examination of your conduct to his justice, both for the redress of his own and the Company's grievances, and for the injury sustained by both in their mutual connection. *Do not reply to me*, that what I have written is from the suggestion of your enemies; nor imagine that I have induced myself to write in such plain and declaratory terms, without a clear insight into all the consequences of it, and a fixed determination upon them."

LXX. That the aforesaid being the tenure of the power of the said minister, and such his character, as given by the said Warren Hastings himself, who did originally compel the Nabob to receive him, who did constantly support him against the Nabob, his master, as well as against the Company's Resident, — the delivering over to such a person his master, his family, his country, and the care of the British interests therein, without control or public inspection, was an high crime and misdemeanor.

LXXI. That the next person whom the said Hastings did invest with power in the said country was a certain opulent and powerful native manager of revenue, called Almas Ali Khân, closely connected with the said Hyder Beg Khân, and to whom the said Hyder Beg Khân, as the said Hastings has admitted, "had intrusted the *greatest* part of his revenues, without any pledge or security for his fidelity." And afterwards the said Hastings charges the said Almas Ali with an intention of removing from the Nabob's

dominions: he states, "as taking with him," and therefore being possessed of, "an immense treasure, the fruits of his embezzlements and oppressions, and an army raised for its protection."

LXXII. That the said Warren Hastings was, or pretended to be, impressed with the evil character, dangerous designs, and immoderate power of the said Almas Ali; that he did insert among his instructions to the Resident Bristow an order of a dangerous and unwarrantable nature, in which, upon his, the said Hastings's, simple allegation of offences, not accurately described or specified, with regard either to the fact, the nature of the offence, or the proof, he was required to urge the Nabob to put him to death, with many qualifications in the said instructions, full of fraud and duplicity, calculated to insnare the said Resident Bristow, and to throw upon him the responsibility of the conduct of the said Almas Ali Khân, if he should continue at large contrary to his orders, or to subject him, the said Resident, to the shame and scandal of apprehending and putting him to death by means which, in the circumstances, must necessarily be such as would be construed into treachery, and he, the said Almas Ali Khân, being from nature and situation suspicious and watchful, and being at that very time in the collection, or farmer of the most important part of the revenues, with an extensive jurisdiction annexed, and at the head of fourteen thousand of his own troops, and having been recently accepted by the Resident Middleton as security for large sums of money advanced by the bankers of Benares to the use of the East India Company; which orders (if the said Resident would or could have executed them)

must have raised an universal alarm among all the considerable men of the country concerned in the government, and would have been a means of subverting the public credit of the Company, by the murder of a person engaged for very great sums of money that had been advanced for their use. And the said instruction is as followeth.

"If any engagement shall actually subsist between them at the time you have charge of the Residency, it must, however exceptionable, be faithfully observed; but if he has been guilty of any criminal offence to the Nabob, his master, for which no immunity is provided in the engagement, or he shall break any one of the conditions of it, I do most strictly enjoin you, and it must be your special care to endeavor, *either by force or surprise*, to secure his person and bring him to justice. By bringing him to justice I mean, that you urge the Nabob, on due conviction, *to punish him with death*, as a necessary example to deter others from the commission of the like crimes; nor must you desist till this is effected. I cannot prescribe the means; but to guard myself against the obloquy to which I may be exposed by a forced misconstruction of this order by those who may hereafter be employed in searching our records for cavils and informations against me, I think it proper to forbid and protest against the use of any *fraudulent artifice or treachery to accomplish the end which I have prescribed;* and as you alone are privy to the order, you will of course observe the greatest secrecy, that it may not transpire: but I repeat my recommendation of it, as one of the first and most essential duties of your office."

LXXIII. That, among the reasons assigned for putting to death the said Almas Ali, which the said Hastings did recommend directly and repeatedly to the Resident, "as one of the first and most essential duties of his office," was, in substance, "that, by his extensive trust with regard to the revenues, he had been permitted to acquire independency; that the means thereof had been long seen and the effects thereof foretold by every person acquainted with the state of government, except those immediately interested in it"; and he, the said Warren Hastings, did also charge the said Almas Ali with embezzlement of the revenues and oppression of the people; and nothing appears to disprove the same, but much to give ground to a presumption that the said Almas Ali did grievously abuse the power committed to him, as farmer and collector of the revenue, to the great oppression of the inhabitants of the countries which had been rented to him by Hyder Beg Khân with the knowledge and consent of the said Warren Hastings.

LXXIV. That the Resident, Bristow, declining the violent attempt on the life of Almas Ali deceitfully ordered by the said Warren Hastings, did, on weighty reasons, drawn from the spirit of the said Hastings's own instructions, recommend that his, the said Almas Ali Khân's, farms of revenue, or a great part of them, should be, on the expiration of his lease, taken out of his hands, as being too extensive, and supplying the means of a dangerous power in the country; but yet he, the said Warren Hastings, did not only continue him in the possession of the said revenues, but did give to him a new lease thereof for the term of five years. And on this renovation and increase of

trust, the said Warren Hastings did not consent to produce the informer upon whose credit he had made his charge of capital crimes on the said Almas Ali, and had directed him to be put to death, or call upon him to make good his charges; but, instead of this, totally changing his relation to the said Almas Ali, did himself labor to procure from all parts attestations to prove him not guilty of the perfidy and disloyalty of which the said Hastings himself appears to have been to that very time his sole accuser, as he hath since been his most anxious advocate: but though he did use many endeavors to acquit Almas Ali of his intended flight, yet concerning his embezzlements and oppressions, the most important of all charges relative to that of the revenue and collection, he, the said Hastings, hath made no inquiry whatever; by which it might appear that he was not as fully guilty thereof as he had always represented him to be. But some time after he, the said Warren Hastings, had arrived at Lucknow, in the year 1784, he suggested to the said Almas Ali Khân the *advance* to the Company's use of a sum of money amounting to fifty thousand pounds or thereabouts; and the said suggested advance was (as the said Warren Hastings asserts, no witness or document of the transaction appearing) "cheerfully and without hesitation complied with, considering it as an *evidence seasonably* offered for the general refutation of the charges of perfidy and disloyalty": which practice of charging wealthy persons with treason and disloyalty, and afterwards acquitting them on the payment of a sum of money, is highly scandalous to the honor, justice, and government of Great Britain; and the offence is highly aggravated by the said Hastings's declaration to the Court of Directors that the

charges against Almas Ali Khân have been too laboriously urged against him, and carried at one time to such an excess as had nearly driven him to abandon his country "*for the preservation of his life and honor*," and thus to give a "color to the charges themselves," when he, the said Warren Hastings, did well know that he himself did consider as a crime, and did make it an article in a formal accusation against the Resident Middleton, that he did not inform him, the said Hastings, of the supposed treasons of Almas Ali Khân, and of his design to abandon the country, when he himself did most laboriously urge the charges against him, and when no attempt appears to have been made against the life of the said Almas Ali Khân except by the said Warren Hastings himself.

LXXV. That the sum of fifty thousand pounds sterling, or thereabouts, publicly taken by the said Warren Hastings, as an *advance* for the use of the Company, if given as a consideration or fine, on account of the renewal for a long term of civil authority and military command, and the collection of the revenues to an immense amount, the same being at least eight hundred thousand pounds sterling yearly, was so totally inadequate to the interest granted, that it may justly be presumed it was not on that, or on any public ground or condition, that the said Hastings did delegate, out of all reach of resumption or correction, a lease of boundless power and enormous profit, for so long a term, to a known oppressor of the country.

LXXVI. That Warren Hastings, being at Lucknow in consequence of his deputation aforesaid, did, in his letter from that city, dated 30th of April, 1784, recom-

mend to the Court of Directors, "as his *last and ultimate hope*, that their wisdom would put a *final* period to *the ruinous and disreputable system* of interference, whether *avowed or secret*, in the affairs of the Nabob of Oude, and withdraw *forever the influence* by which it is maintained," and that they ought to confine their views to the sole maintenance of the old brigade stationed in Oude by virtue of the first treaty with the reigning Nabob, expressing himself in the following words to the Court of Directors. "If you transgress that line, you may extend *the distribution of patronage, and add to the fortunes of individuals*, and to the nominal riches of Great Britain; but your *own* interests will suffer by it; and *the ruin of a great and once flourishing nation will be recorded as the work of your administration, with an everlasting reproach to the British name.* To this reasoning I shall join *the obligations of justice and good faith, which cut off every pretext for your exercising any power or authority in this country, as long as the sovereign of it fulfils the engagements he has articled with you.*"

LXXVII. That it appears by the extraordinary recommendation aforesaid, asserted by him, the said Hastings, to be enforced by the "*obligations of justice and good faith*," that the said Warren Hastings, at the time of writing the said letter, had made an agreement to withdraw the British interference, represented by him as a "ruinous and disreputable system," out of the dominions of the Nabob of Oude. But the instrument itself, in which the said agreement is made, (if at all existing,) does not appear; nor hath the said Hastings transmitted any documents relative to the said treaty, which is a neglect highly criminal,—

especially as he has informed the Company, in his letter from Benares, "that he has promised the Nabob that he will not abandon him to the *chance* of any other mode of relation, and most confidently given him assurance of *the ratification and confirmation* of that which he [the said Hastings] had established between his government and the Company": the said *confident assurance* being given to an agreement never produced, and made without any sort of authority from the Court of Directors, — an agreement precluding, on the one hand, the operation of the discretion of his masters in the conduct of their affairs, or, on the other, subjecting them to the hazard of an imputation on their faith, by breaking an engagement confidently made in their name, though without their consent, by the first officer of their government.

That the said Hastings, further to preclude the operation of such discretionary conduct in the administration of this kingdom as circumstances might call for, has informed the Directors that he has gone so far as even to condition the existence of the revenue itself with the exclusion of the Company, his masters, from all interference whatsoever: for in his letter to Mr. Wheler, dated Benares, 20th September, 1784, are the following words. "The aumils [collectors] demanded that a clause should be inserted in their engagements, that they were to be in full force for the complete term of their leases, *provided that no foreign authority* was exercised over them, — or, in other words, *that their engagements were to cease whenever they should be interrupted in their functions by the interference of an English agent.* This requisition was officially notified to me by the acting minister, and referred to me in form by the Nabob Vizier, for my *previous* consent

to it. I encouraged it, and I gave my consent to it." And the said Hastings has been guilty of the high presumption to inform his said masters, that he has taken that course to compel them not to violate the assurances given by him in their name: "There is one condition" (namely, the above condition) "which *essentially connects the confirmation of the settlement itself with the interests of the Company.*"

LXXVIII. That the said Warren Hastings, who did show an indecent distrust of the Company's faith, did endeavor, before that time, at other times, namely, in his instructions to his secret agent, Major Palmer, dated the 6th of May, 1782, to limit the confidence to be reposed in the British government to the duration of his own power, in the following words in the fifth article. "It is very much my desire to impress the Nabob with a *thorough* confidence in the faith and justice of our government, — that is to say, *in my own*, while I am at the head of it: I cannot be answerable for the acts of others independent of me."

LXXIX. That the said Warren Hastings did, in his letter, dated Benares, the 1st of October, 1784, to the Court of Directors, write, "that, if they [the Directors] manifested no *symptoms* of an (1.) *intended* interference, the objects of his engagements will be obtained; (2.) but if a different policy shall be adopted, — if new agents are sent into the country, and armed with authority for the purposes of vengeance or corruption (*for to no other will they be applied*), — (3.) if new demands are made on the Nabob Vizier, (4.) and accounts overcharged on one side, with a wide latitude taken on the other, to swell his debt

beyond the means of payment, — (5.) if political dangers are portended, to ground on them the plea of burdening his country with unnecessary defences and enormous subsidies, — (6.) or if, even abstaining from *direct encroachment on the Nabob's rights*, your government shall show but *a degree of personal kindness to the partisans* of the late usurpation, or by any constructive indication of partiality and dissatisfaction *furnish* grounds for the *expectation* of an *approaching* change of system, — I am sorry to say, that all my labors will prove abortive."

LXXX. That all the measures deprecated in future by the said Warren Hastings, with a reference to former conduct, in his several letters aforesaid, being (so far as the same are intelligible) six in number, have been all of them the proper acts and measures of the said Warren Hastings himself. For he did himself first of all introduce, and did afterwards continue and support, that interference which he now informs the Court of Directors " is ruinous and disreputable, and which the very *symptoms* of an *intention* to renew " he considers in the highest degree dangerous; he did direct, with a controlling and absolute authority, in every department of government, and in every district in the dominions of the Nabob of Oude. Secondly, the appointment of agents, which was eminently the act of his own administration: he not only retaining many agents in the country of Oude, both " *secret and avowed*," but also sending some of them, in defiance to the orders of that very Court of Directors, to whom, in his said letter of the 1st of October, 1784, he assigns " vengeance and corruption " as the only motives that can produce such

appointments. Thirdly, that he, the said Warren Hastings, did instruct one of the said agents, and did charge him upon pain of "*a dreadful responsibility*," to perform sundry acts of violence against persons of the highest distinction and nearest relation to the prince; which acts were justly liable to the imputation of "*vengeance*" in the execution, and which he, in his reply to the defence of Middleton to one of his charges, did declare to be liable to the suspicion of "*corruption* in the relaxation." Fourthly, that he did raise new demands on the Vizier, "and overcharge accounts on one side and take a wide latitude on the other," by sending up a new and before unheard-of overcharge of four hundred thousand pounds and upwards, not made by the Resident or admitted by the Vizier, and, by adding the same, did swell his debt "beyond the means of payment"; and did even insert, as the ninth article of his charge against Middleton, "his omitting to take any notice of the additional balance of Rupees 26,48,571, stated by the Accountant-General to be due from the Vizier on the 30th of April, 1780," to which he did add fourteen lac more, making together the above sum. Fifthly, that he, the said Warren Hastings, did assign "political dangers," in his minute of the 13th December, 1779, for burdening the said Nabob of Oude "with unnecessary defences and enormous subsidies," with regard to which he then declared, that "it was *our* part, not *his* [the Nabob's], to judge and to determine." And, sixthly, that he did not only show the *design*, but the *fact*, of personal kindness to the partisans of what he here calls, as well as in another letter, and in one Minute of Consultation, a "late usurpation," — he having rewarded the principal and most obnoxious of the instruments of

the said late usurpation, (if such it was,) Richard Johnson, Esquire, with an honorable and profitable embassy to the court of the Nizam.

LXXXI. That the said Warren Hastings, therefore, — by assuming an authority which he himself did consider as an *usurpation*, and by acts in virtue of that usurped authority, done in his own proper person and by agents appointed by himself, and proceeding (though with some mitigation, for which one of them was by him censured and accused) under his own express and positive orders and instructions, and thereby establishing, as he himself observed, "a system of interference, disreputable and ruinous, which could only be subservient to promote patronage, private interest, private embezzlement, corruption, and vengeance," to the public detriment of the Company, "and to the ruin of a once flourishing nation, and eternally reproachful to the British name," and for the evil effects of which system, "as his sole and ultimate hope" and remedy, he recommends an entire abdication, forever, not only of all power and authority, but even of the interference and influence of Great Britain, — is guilty of an high crime and misdemeanor.

LXXXII. That the said Warren Hastings, in his letter from Chunar of the 29th of November, 1781, has represented that very influence and interference, which in three public papers he denominates "*a late usurpation*," as being authorized by a regular treaty and agreement, voluntarily made with the Nabob himself, at a place called Chunar, on the 19th of September, 1781, a copy of which hath been transmitted

to the Court of Directors, — and that three persons were present at the execution of the same, two whereof were Middleton and Johnson, his agents and Residents at Oude, the third the minister of the Nabob. And he did, in his paper written to the Council-General, and transmitted to the Court of Directors, not only declare that the said interference was agreed to by the said Nabob, and sealed with his seal, but would be highly beneficial to him: assuring the said Council, "that, if the Resident performed his duty in the execution of his [the said Hastings's] instructions, the Nabob's part of the engagement will prove of still greater benefit to him than to our government, in whose behalf it was exacted; and that the *participation* which is allowed our Resident in the *inspection* of the public treasure will secure the receipt of the Company's demands, whilst *the influence which our government will ALWAYS possess over the public minister of the Nabob, and the authority of our own*, will be an effectual means of securing an attentive and faithful discharge of their several trusts, both towards the Company and the Vizier."

LXXXIII. And the said Warren Hastings did not only settle a plan, of which the agency and interference aforesaid was a part, and assert the beneficial consequences thereof, but did also record, that the same "was a great public measure, constituted on a large and *established system*, and destructive, in its instant effects, of the interest and fortune of many patronized individuals"; and in consequence of the said treaty, he, the said Warren Hastings, did authorize and positively require his agent aforesaid to interfere in and control and regulate *all the Nabob's affairs*

whatsoever: and the said Warren Hastings having made for the Company, and in its name, an acquisition of power and authority, even if it had been abused by others, he ought to have remedied the abuse, and brought the guilty to condign punishment, instead of making another treaty without their approbation, consent, or knowledge, and to this time not communicated to them, by which it appears he has annulled the former treaty, and the authority thereby acquired to the Company, as a grievance and usurpation, to which, from the general corruption of their service, no other remedy could be applied than a formal renunciation of their power and influence: for which said actings and doings the said Warren Hastings is guilty of an high crime and misdemeanor.

LXXXIV. That the Company's army in India is an object requiring the most vigilant and constant inspection, both to the happiness of the natives, the security of the British power, and to its own obedience and discipline, and does require that inspection in proportion as it is removed from the principal seat of government; and the number and discipline of the troops kept up by the native princes, along with British troops, is also of great moment and importance to the same ends. That Warren Hastings, Esquire, pretending to pursue the same, did, in virtue of an authority acquired by the treaty of Chunar aforesaid, give strict orders, and to which he did demand *a most implicit obedience*, that *all* officers of the Nabob's army should be appointed "with *the concurrence of the Resident*," and supposing the case that persons of obnoxious description or of known disaffection to the British government should be appointed,

(of which he left the Resident to be the judge,) he did direct in the following words: "You are in such case to remonstrate against it; and if the Vizier should persist in his choice, you are peremptorily, *and in my name*, to oppose it as *a breach of his agreement*"; and he did also direct that the "*mootiana* [or soldiers employed for the collection of revenue] should be reformed, and reduced into one corps for the whole service, and that *no* infantry should be left in the Nabob's service but what may be necessary for his body-guard"; and he did further order and direct as follows: "That in quelling disturbances the commander of the forces should assist you [the said Resident] on the requisition of the Vizier communicated through you to him [the said commander], *or at your own single application*. It is directed that the regiment ordered for the immediate protection of your office and person at Lucknow shall be relieved every three months, and during its stay there shall act solely and exclusively under your orders." And it appears in the course of the Company's correspondence, that the country troops under the Nabob's sole direction would be ill-disciplined and unserviceable, if not worse, and therefore the said Warren Hastings did order that "no infantry should be kept in his service"; yet it appears that the said Warren Hastings did make an arrangement for a body of native troops wholly out of the control or inspection of the British government, and left a written order in the hands of Major Palmer (one of *his* agents, who had been continued there, though the Company was not permitted to employ any) to be transmitted to Colonel Cumming as soon as an adequate force shall be provided *for the defence of the Nabob's frontier* by detachments

from *the Nabob's own battalions*, — the said Colonel Cumming's forces, whom the others were to supersede and replace, consisting wholly of infantry, and which, being intended for the same service, were probably of the same constitution.

LXXXV. That the old brigade of British troops, which by treaty was to remain, had been directed, by the instructions of the said Hastings to the Resident Middleton and to the Resident Bristow, "not to be employed at the requisition of the Vizier any otherwise than through the Resident"; and the said direction was properly given, — it not being fit that British troops should be under the sole direction of foreign independent princes, or of any other than the British government: yet, notwithstanding the proper and necessary direction aforesaid, he, the said Warren Hastings, hath left the said troops, by his new treaty, without any local control, or even inspection, notwithstanding his powers under the treaty of Chunar, and his own repeated orders, and notwithstanding the mischiefs and dangers which the said Warren Hastings did foresee would result therefrom, if left under the sole direction of the Nabob, and their own discretion, the said Hastings having stipulated with the said Nabob not to exercise any authority, or even influence, *secret* or *avowed*, within his dominions.

LXXXVI. That the crime of the said Warren Hastings, in attempting thus to abandon the British army to the sole discretion of the Nabob of Oude, is exceedingly aggravated by the description given by him severally of the said Nabob of Oude, and of the British army stationed for the defence of his dominions.

In his letters to the Court of Directors, and in his Minutes of Consultation, and particularly in his letter of ———, immediately on the accession of the Nabob, he did inform the said Court, "that the Nabob had not, by all accounts, the qualities of the head or heart which fitted him for that office, though there was no dispute concerning his right to succeed"; and some years afterwards, when his accounts must have been rendered more certain, he did, in his Minute of Consultation of the 15th of December, 1779, (regularly transmitted to the Court of Directors,) upon a discussion for withdrawing certain troops kept up in the Nabob's country without his consent, by him, the said Warren Hastings, strongly urge as follows,—"the *necessity* of maintaining the influence and force which we possess in the country; that the disorders of his state [the Nabob of Oude's state] and dissipation of his revenues are the effects of his own conduct, which has failed, not so much from the usual effects of *incapacity* as from the detestable choice he has made of the ministers of his power and the participation of his confidence. I forbear to expatiate further on his character; it is sufficient that I am understood by the members of this board, who must know the truth of my allusions. Mr. Francis" (a member of the board) "surely was not aware of the injury he did me [Warren Hastings] by attributing to the spirit of party the character I gave Asoph ul Dowlah [the Nabob of Oude]; he himself knows it *to be true; and it is one of those notorieties which supersede the necessity of any evidence. I was forced to the allusion I made by the imputation cast on this government, as having caused the evils which prevail in the government of the Nabob of Oude, which I could only answer by ascribing them to their true*

cause, the character and conduct of the Nabob of Oude." And the Resident (appointed by the said Hastings, against the orders of the Court of Directors, as his particular confidential representative, one whom the said Nabob did himself request might be continued with him *by an engagement in writing forever*) did some time before, that is, on the 3d of January, 1779, assure the said Hastings and the Council-General, that "such is his Excellency's [the Nabob of Oude's] disposition, and so entirely has he lost the confidence and affections of his subjects, that, unless some restraint is imposed on him which would effectually secure those who live under the protection of his government from violence and oppression, I am but too well convinced that no man of reputation or property will long continue in these provinces"; and that the said Resident proceeds to an instance of oppression and rapine, "out of *many* of the Nabob's, which has caused a total disaffection and want of confidence among his subjects: he hoped the board would take it into their humane consideration, and interpose their *influence*, and prevent an act which would inevitably bring disgrace upon himself, and a proportionable degree of discredit on the national character of the English, which I consider to be more or less concerned in every act of his administration."

LXXXVII. That no exception was ever taken by the said Warren Hastings to the truth of the facts, or to the justness of the observation of the said Resident, which he did transmit to the Court of Directors. And the said Warren Hastings, in his letter from Chunar, dated the 29th of November, 1781, speaking of the restraints which had been put by him, the said

Hastings, on the Nabob, relative to his own *mootiana*, or forces for collection and police, and the necessity of giving the Resident a control in the nomination of the officers of his army, has asserted, "that the necessity of the reservation arose from a too well known defect in the Nabob's character: if this *check* be withdrawn, and the choice left absolutely to the Nabob, the first commands in his army will be filled with the most worthless and abandoned of his subjects: his late commander-in-chief is a signal and scandalous instance of this."

LXXXVIII. And the said Warren Hastings, in his letter to the Court of Directors, dated Benares, the 15th of October, 1784, even after he had made the aforesaid renunciation of the Company's authority and influence to the Nabob, did write, "that the Nabob, though most gentle in his manners, and endued with an understanding much above the common level, has been *unfortunately bred up in habits* that draw his attention too much from his own affairs, and often subject him to the guidance of *insidious and unworthy confidants*"; which, though more decently expressed with regard to the Nabob than in his former minutes, substantially agrees with them. And the said Warren Hastings did inform the Court of Directors, after he had solemnly covenanted to withdraw all the Company's influence on the assurances and promises of a person so by himself described, that, for reasons grounded on his knowledge of the imbecility of the character of the Nabob, he waited in a frontier town, "that he might be at hand to counteract any attempt to defeat the effect of his proceedings at Lucknow"; and in his letter to Mr. Wheler from the

same place he did write in the following words: "I am still near enough to attend to the first effects of the execution, and to interfere with my influence for the removal of any obstructions to which they are or may be liable." He therefore found that there was none or but an insufficient security to the effect of his treaty, but in his own direct personal violation of it. What otherwise was wanting in the security for the Nabob's engagements was to be supplied as follows: "The most respectable persons of his family will be employed to counteract every other which may tend to warp him from it; and I am sorry to say *that such assistance was wanting.*" And in another letter, "that he had equal ground to expect every degree of support which could be given it by *the first characters of his family*, who are warmly and zealously interested in it": the principal male character of the family, and of the most influence in that family, being Salar Jung, uncle to the Nabob; and the first female characters of the family being the mother and grandmother of the reigning sovereign: all of whom, male and female, he, the said Warren Hastings, in sundry letters of his own, in the transmission of various official documents, and even in affidavits studiously collected and sworn before Sir Elijah Impey during his short residence at Lucknow and Benares, did himself represent as persons entirely disaffected to the English power in India, — as having been principal promoters, if not original contrivers, of a general rebellion and revolt for the utter extirpation of the English nation, — and as such, he, the said Warren Hastings, did compel the Nabob reluctantly to take from them their landed estates; and yet the said Warren Hastings has had the presumption to attempt to impose

on the East India Company by pretending to place his reliance on those three persons for a settlement favorable to the Company's interests, on his renunciation of all their own power, authority, and influence, and on his leaving their army to the sole and uncontrolled discretion of a stranger, meriting in his opinion the description given by him as aforesaid, as well as by him frequently asserted to be politically incapable of supporting his own power without the aid of the forces of the Company. And the offence of the said Warren Hastings, in abandoning a considerable part of the British army in the manner aforesaid, is much increased by the description which he has himself given of the state of the said army, and particularly of that part thereof which is stationed in the Nabob of Oude's dominions: for he did himself, on the 29th of November, 1781, transmit the information following, on that subject, to the Court of Directors, namely, — "that the remote stations of those troops, placing the commanding officers beyond the notice and control of the board [the Council-General] at Calcutta, afforded too much of opportunity and temptation for unwarrantable *emoluments, and excited the contagion of peculation and rapacity throughout the whole army.* A most remarkable instance and uncontrovertible proof of the prevalence of this spirit has been seen in the court-martial upon Captain Erskine, where the court, composed of officers of rank, and respectable characters, unanimously and honorably, (*most* honorably,) upon an acknowledged fact, acquitted him, which in times of stricter discipline would have been deemed a crime deserving the severest punishment." From which representation (if the said Warren Hastings did not falsely and unjustly accuse

and slander the Company's service) it appeared that the peculation which infected the whole army, derived from the taint which it had in Oude, and so fatal to the discipline of the troops, would be dangerously increased by his treaty and agreement aforesaid with the Nabob, and by his own said evil counsel to the Court of Directors.

LXXXIX. That it appears, after the said Warren Hastings had, on grounds so disgraceful to the British nation and government, agreed to remove forever the British influence and interference from the government of Oude, on account of the disorders in the said government, solely produced by his own criminal acts and criminal connivances, that he did overturn his own settlement as soon as he had made it, and did, after he had abolished the Company's Residency, as a grievance, wholly violate his own solemn agreement: for he did, for his private purposes, continue therein his own private agent, Major Palmer, with a number of officers and pensioners, at a charge to the revenues of the country greatly exceeding that of the establishment under Mr. Bristow, which he did represent as frightfully enormous, and which he pretended to remove: the former amounting to 112,950*l.*, the latter only to 64,202*l.*

XC. That his own secret agent, Major Palmer, did receive a salary or allowance, equal to 22,800*l.* a year, out of the distressed province of Oude; and this the said Palmer did declare not to be more than he absolutely did really and *bonâ fide* spend, and that he had retrenched considerably "in some of the articles since the expense has been borne by the Viz-

ier, and in every particular he made as little parade and appearance as his station would admit," — his station being that of the said Warren Hastings's private agent. But if the said large salary must be considered as merely equal to the expenses, large secret emoluments must be presumed to attend it, in order to make it a place advantageous to the holder thereof. That the said Palmer did apply to the board at Calcutta for a new authority to continue the said establishments, — he conceiving their continuance, " after the period of the Governor-General's departure, depended upon the pleasure of the board, and not upon the *authority of the Governor-General, under the sanction of which they were established or confirmed.*

XCI. That the said Warren Hastings, in order to ruin the Resident Bristow, and to justify himself for his former proceedings respecting him, did bring before the board a new charge against him, for having paid a large establishment of offices and pensions to the Company's servants from the revenues of Oude; and the said Bristow, in making his defence against the charge aforesaid, did plead, that he had found all the allowances on his list established before his last appointment to the Residency, — that they had grown to that excess in the interval between his first removal by the said Warren Hastings and his reappointment; and having adduced many reasons to make it highly probable that the said Hastings was perfectly well acquainted with it, and did approve of the expensive establishments which he, the said Bristow, simply had paid, but not imposed, he did allege, besides the official assurances of his predecessor, Middleton, certain facts, as amounting to a direct proof

that the Governor-General, Warren Hastings, was not averse to the Vizier's granting large salaries to more than one European gentleman. And the first instance was to Mr. Thomas, a surgeon, who, exclusive of his pay from the Company, which was 1,440*l.* a year, claimed from the Vizier, with Mr. Hastings's knowledge, the sum of 9,763*l.* a year, and upwards, making together 11,203*l.* per annum. The next was Mr. Trevor Wheler, who did receive, upon the same establishment, when he was Fourth Assistant at Oude, 6,000*l.* a year; and which last fact the said Hastings has admitted upon record "that the accusations of Mr. Bristow and Mr. Cowper did *oblige* and *compel* him to acknowledge,"—denying, at the same time, that the allowances of the Residents Middleton and Bristow, except in this single instance, were ever authorized by him; whereas his own agent, Palmer, did, in his letter of the 27th of March, 1785, represent, that the said salaries and allowances (if not more and larger) were by him authorized or confirmed.

XCII. That the aforesaid Bristow did also produce the following letter in proof that Mr. Hastings knew and approved of large salaries to British subjects upon the revenues of Oude, and which he did declare that nothing but the necessity of self-defence could have induced him to produce.

'DEAR BRISTOW,—

"Sir Eyre Coote has some field-allowances to receive from the Vizier; they amount to Sicca Rupees 15,554 per month, and he has been paid up by the Vizier to the 20th of August, 1782. The Governor has directed me to write to you, to request you to re-

Sir Eyre Coote, K.B.

From a painting in the National Portrait Gallery

ceive what is due from the Vizier from the 20th August last, at the rate of Lucknow Sicca Rupees 15,554 per month, and send me a bill for the amount, the receipt of which I will acknowledge in the capacity of Sir Eyre Coote's attorney; and the Governor desires that you will continue to receive Sir Eyre Coote's field-allowances at the same rate, and remit the money to me as it comes in.

(Signed) "CHARLES CROFTES.

"CALCUTTA, January 25, 1783."

XCIII. That Sir Eyre Coote aforesaid was at the time of the said field-allowances not serving in the country of Oude, on which the said allowances were charged, but in the Carnatic.

XCIV. That, from the declaration of the said Hastings himself, that it was the conviction of Mr. Bristow and Mr. Cowper that could alone *oblige* and *compel* him to *acknowledge* certain of his aforesaid practices, and that nothing *but the necessity of self-defence* could have induced Mr. Bristow to make public another and much stronger instance of the same, it is to be violently presumed, that, where these two, or either, or both necessities did not exist, many evil and oppressive practices of the said Hastings do remain undiscovered,—that, if it had not been for the contests between him, the said Hastings, and the Resident Bristow, not only the before-mentioned particulars, but the whole of the expensive civil establishments for English servants at Oude, would have been forever concealed from the Directors and from Parliament: and yet the said Hastings has had the audacity to pretend so complete an ignorance of the facts, that, repre-

senting the Vizier as objecting to the largeness of the payments made by Bristow, and stating a very reduced list, which he was willing to allow for, amounting to 30,000*l.* a year, the said Hastings did affect to be alarmed at the magnitude even of the list so curtailed, expressing himself as follows, in his minute of the 7th of December, 1784: "For my own part, when the Vizier's minister first informed me that the amount which his master had authorized, and was willing to admit, for the charges of the Residency, and the allowances of the gentlemen at Lucknow, was 25,000 rupees per month, I own I was startled at the magnitude of the sum, and was some days hesitating in my mind whether I could with propriety admit of it": whereas he well knew that the three sums alone of which the necessities aforesaid had compelled the discovery did greatly exceed that sum of which at the first hearing he affects to have been so exceedingly alarmed and thrown into a state of hesitation which continued for some days, and although he, the said Hastings, was conscious that he had at the very time authorized an establishment to more than four times the amount thereof.

XCV. That, in the said deceits, prevarications, contradictions, malicious accusations, fraudulent concealments, and compelled discoveries, as well as in the said secret, corrupt, and prodigal disposition of the revenues of Oude, as well as in his breach of faith to the Nabob, in continuing expensive establishments under a private agent of his own after he had agreed to remove the Company's agent, the said Warren Hastings is guilty of an high offence and misdemeanor.

XVII.—MAHOMED REZA KHÂN.

I. THAT it was the declared policy of the Company, on the acquisition of the dewanny of Bengal, to continue the country government, under the inspection of the Resident at the Nabob's durbar in the first instance, and that of the President and Council in the last; and for that purpose they did stipulate to assign, for the support of the dignity of the Nabob, an annual allowance from the revenues, equal to four hundred thousand pounds a year.

II. That, during the country government, the principal active person in the administration of affairs, for rank, and for reputation of probity, and of knowledge in the revenues and the laws, was Mahomed Reza Khân, who, besides large landed property, was possessed of offices whose emoluments amounted nearly, if not altogether, to one hundred thousand pounds a year.

IV.* That the Company's servants, in the beginning, were not conversant in the affairs of the revenue, and stood in need of natives of integrity and experience to act in the management thereof. On that ground, as well as in regard to the rank which Mahomed Reza Khân held in the country, and the confidence of the people in him, they, the President and Council, did inform the Court of Directors, in their letter of the 30th of September, 1765, that, "as Mahomed Reza Khân's short administration was irreproachable, they determined to continue him in a share of the authority"; and this information was not given lightly, but was founded upon an inquiry

* Sic orig.

into his conduct, and a minute examination of charges made against him by his rivals in the Nabob's court, —they having insinuated to the Nabob that a design was formed for deposing him, and placing Mahomed Reza on his throne; but, on examination, the President and Council declare, that "he had so openly and candidly accounted *for every rupee* disbursed from the treasury, that they could not, without injury to his character, and injustice to his conduct during his short administration, refuse continuing him in a share of the government."

V. That the Company had reason to be satisfied with the arrangement made, so far as it regarded him: the President and Council having informed them, in the following year, in their letter of the 9th of December, 1766, that "the *large* increase of the revenue must in a great measure be ascribed to Mr. Sykes's assiduity, and to *Mahomed Reza Khân's profound knowledge in the finances.*"

VI. That the then President and Council, finding it necessary to make several reforms in the administration, were principally aided in the same by the suggestion, advice, and assistance of the said Mahomed Reza Khân; and in their letter to the Court of Directors of the 24th of June, 1767, they state their resolution of reducing the emoluments of office, which before had arisen from a variety of presents and other perquisities, to fixed allowances; and they state the merits of Mahomed Reza Khân therein, as well as the importance, dignity, and responsibility of his station, in the following manner.

"Mahomed Reza Khân has now *of himself, with*

great delicacy of honor, represented to us the evil consequences that must ensue from the continuance of this practice, — since, by suffering the principal officers of the government to depend for the support of their dignity on the precarious fund of perquisites, they in a manner oblige them to pursue oppressive and corrupt measures, equally injurious to the country and the Company; and they accordingly assigned twelve lac of rupees for the maintenance and support of the said Mahomed Reza Khân, and two other principal persons, who held in their hands the most important employments of that government, — having regard to their elevated stations, and to the expediency of supporting them in all the show and parade requisite to keep up the authority and influence of their respective offices, as they are all men of weight and consideration in the country, who held places of great trust and profit under the former government. We further propose, by this act of generosity, to engage their cordial services, and confirm them steady in our interests; since they cannot hope, from the most successful ambition, to rise to greater advantages by any chance or revolution of affairs. At the same time it was reasonable we should not lose sight of Mahomed Reza Khân's past services. He has pursued the Company's interest with steadiness and diligence; his abilities qualify him to perform the most important services; the unavoidable charges of his particular situation are great; in dignity he stands second to the Nabob only; — and as he engages to increase the revenues, without injustice or oppression, to more than the amount of his salary, *and to relinquish those advantages, to the amount of eight lacs of rupees per annum*, which he heretofore enjoyed, we

thought it proper, in the distribution of salaries, to consider Mahomed Reza Khân in a light superior to the other ministers. We have only to observe further, that, great and enormous as the sum must appear which we have allotted for the support of the ministers of the government, we will not hesitate to pronounce that it is necessary and reasonable, and will appear so on the consideration of the power which men employed on these important services have either to obstruct or promote the public good, unless their integrity be confirmed by the ties of gratitude and interest."

VII. That the said Mahomed Reza Khân continued, with the same diligence, spirit, and fidelity, to execute the trust reposed in him, which comprehended a large proportion of the weight of government, and particularly of the collections; and his attachment to the interest of the Company, and his extensive knowledge, were again, in the course of the year 1767, fully acknowledged, and stated to the Court of Directors. And it further appears that by an incessant application to business his health was considerably impaired, which gave occasion in the year following, that is, in February, 1768, to a fresh acknowledgment of his services in these terms: "We must, in justice to Mahomed Reza Khân, express the high sense we entertain of his abilities, and of the indefatigable attention he has shown in the execution of the important trust reposed in him; and we cannot but lament the prospect of losing his services from the present declining state of his health."

VIII. That as in the increase of the revenue the

said Mahomed Reza Khân was employed as a person likely to improve the same without detriment to the people, so, when the state of any province seemed to require a remission, he was employed as a person disposed to the relief of the people without fraud to the revenue; and this was expressed by the President and Council as follows, with relation to the remissions granted in the province of Bahar: "That the general knowledge of Mahomed Reza Khân, in all matters relative to the dewanny revenues, induced us to consent to such deductions being made from the general state of that province at the last *poonah* as may be deemed irrecoverable, or such as may procure an immediate relief and encouragement to the ryots in the future cultivation of their lands."

IX. That the said Mahomed Reza Khân, in the execution of the said great and important trusts and powers, was not so much as suspected of an ambitious or encroaching spirit, which might make him dangerous to the Company's then recent authority, or which might render his precedence injurious to the consideration due to his colleagues in office; but, on the contrary, it appears, that, a plan having been adopted for dividing the administration, in order to remove the Nabob's jealousies, the same was in danger of being subverted by the ambition "of two of his colleagues, and *the excessive moderation of Mahomed Reza Khân.*" And for a remedy of the inconveniencies which might arise from the excess of an accommodating temper, though attended with irreproachable integrity, the President and Council did send one of their own members, as their deputy, to the Nabob of Bengal, at his capital of Moorshedabad; and this measure appears to

have been adopted for the support of Mahomed Reza Khân, in consequence of an inquiry made and advice given by Lord Clive, in his letter of the 3d of July, 1765, in which letter he expresses himself of the said Mahomed Reza Khân as follows: "It is with pleasure I can acquaint you, *that, the more I see of Mahomed Reza Khân, the stronger is my conviction of his honor and moderation*, but that, at the same time, I cannot help observing, that, either from timidity or an erroneous principle, he is too ready to submit to encroachments upon that proportion of power that has been allotted him."

X. That, the Nabob Jaffier Ali Khân dying in February, 1765, Mahomed Reza Khân was appointed guardian to his children, and administrator of his office, or regent, which appointment the Court of Directors did approve. But the party opposite to Mahomed Reza Khân having continued to cabal against him, sundry accusations were framed relative to oppression at the time of the famine, and for a balance due during his employment of collector of the revenues; upon which the Directors did order him to be deprived of his office, and a strict inquiry to be made into his conduct.

XI. That the said Warren Hastings, then lately appointed to the Presidency, did, on the 1st of April, and on the 24th of September, 1772, write letters to the Court of Directors, informing them that on the very next day after he had received (as he asserts) their private orders, "addressed to himself alone," and not to the board, he did dispatch, by express messengers, his orders to Mr. Middleton, the Resident at

the Nabob's court at Moorshedabad, in a public character and trust with the Nabob, to arrest, in his capital, and at his court, and without any previous notice given of any charge, his principal minister, the aforesaid Mahomed Reza Khân, and to bring him down to Calcutta; and he did carefully conceal his said proceedings from the knowledge of the board, on pretext of his not being acquainted with their dispositions, and the influence which he thought that the said Mahomed Reza Khân had amongst them.

XII. That the said Warren Hastings, at the time he gave his orders as aforesaid for arresting the said Mahomed Reza Khân, did not take any measures to compel the appearance of any other persons as witnesses, — declaring it as his opinion, "that there would be little need of violence to obtain such intelligence as they could give against their former master, when his authority is taken from him"; but he did afterwards, in excuse for the long detention and imprisonment of the said Mahomed Reza Khân, without any proofs having been obtained of his guilt, or measures taken to bring him to a trial, assure the Directors, in direct contradiction to his former declaration, "that the influence of Mahomed Reza Khân still prevailed generally throughout the country, in the Nabob's household, and at the capital, and was scarcely affected by his present disgrace," — notwithstanding, as he, the said Hastings, doth confess, he had used his utmost endeavors "to break that influence, by removing his dependants, and putting the direction of all the affairs that had been committed to his care into the hands of *the most powerful or active of his enemies;* that he depended on the activity of their hatred to

Mahomed Reza Khân, incited by the expectation of rewards, for investigating the conduct of the latter; that with this the institution of the new dewanny coincided; and that the same principle had guided him in the choice of Munny Begum and Rajah Gourdas, — the former for the chief administration, the latter" (the son of Nundcomar, and a mere instrument in the hands of his father) "for the dewanny of the Nabob's household, — both *the declared enemies* of Mahomed Reza Khân."

XIII. That, although it might be true that enemies will become the most active prosecutors, and as such may, though under much guard and many precautions, be used even as witnesses, and that it ought not to be an exception, supposing their character and capacity otherwise good, to the appointing them to power, yet to advance persons to power on the ground not of their honor and integrity, which might have produced the enmity of bad men, but merely for the enmity itself, without any reference whatsoever to a laudable cause, and even with a declared ill opinion of the morals of one of the party, such as was actually delivered in the said letter by him, the said Hastings, of Nundcomar, (and which time has shown he might also on good ground have conceived of others,) was, in the circumstances of a criminal inquiry, a motive highly disgraceful to the honor of government, and destructive of impartial justice, by holding out the greatest of all possible temptation to false accusation, to corrupt and factious conspiracies, to perjury, and to every species of injustice and oppression.

XIV. That, in consequence of the aforesaid mo-

tives, and others pretended, which were by no means a sufficient justification to the said Warren Hastings, he did appoint the woman aforesaid, called Munny Begum, who had been of the lowest and most discreditable order in society, according to the ideas prevalent in India, but from whom he received several sums of money, to be guardian to the Nabob in preference to his own mother, *and to administer the affairs of the government* in the place of the said Mahomed Reza Khân, the second Mussulman in rank after the Nabob, and the first in knowledge, gravity, weight, and character among the Mussulmen of that province. And in order to try every method and to take every chance for his destruction, the said Warren Hastings did maliciously and oppressively keep him under confinement, for a part of the time without any inquiry, and afterwards with a slow and dilatory trial, for two years together.

XV. That, notwithstanding a total revolution in the power, in part avowedly made for his destruction, the persons appointed for his trial did, on full inquiry, completely acquit the said Mahomed Reza Khân of the criminal charges against him, on account of which he had been so long persecuted and confined, and suffered much in mind, body, and fortune: and the Court of Directors, in their letter of the 3d of March, 1775, testify their satisfaction in the conduct and result of the said inquiry, and did direct the restoration of the said Mahomed Reza Khân to liberty, and to the offices which he had lately held, which comprehended the management of the Nabob's household, and the general superintendency of the justice of Bengal; but, according to the orders of

the Court of Directors, his appointments were reduced to thirty thousand pounds a year, or thereabouts, of which he did make grievous complaint, on account of the expenses attendant on his station, and the heavy debts which he had been obliged to contract during his unjust persecution and imprisonment aforesaid.

XVI. That, on the removal of the said Mahomed Reza Khân from the superintendency of the criminal justice, and in consequence of letting the province of Bengal in farm by the said Warren Hastings, several dangerous and mischievous innovations were made by him, the said Warren Hastings, and the criminal justice of the country was almost wholly subverted, and great irregularities and disorders did actually ensue.

XVII. That the Council-General, established by act of Parliament in the year 1773, did restore the said Mahomed Reza Khân, with the consent and approbation of the Nabob, (but under a protest from the said Warren Hastings,) to his liberty and to his offices, according to the spirit of the orders given by the Court of Directors as aforesaid; and the Court of Directors did approve of the said appointment, and did assure the said Mahomed Reza Khân of their favor and protection as long as his conduct should merit the same, in the following terms. "As the abilities of Mahomed Reza Khân have been sufficiently manifested, as official experience qualifies him for so high a station in a more eminent degree than any other native with whom the Company has been connected, and as no proofs of maladministration have been established

against him, either during the strict investigation of his conduct or since his retirement, we cannot under all circumstances but approve your recommendation of him to the Nabob to constitute him his Naib. We are well pleased that he has received that appointment, and authorize you to assure him of our favor, so long as a firm attachment to the interest of the Company and a proper discharge of the duties of his station shall render him worthy of our protection." And the said Mahomed Reza Khân did continue to execute the same without any complaint whatsoever of malversation or negligence, in any manner or degree, in his said office.

XVIII. That in March, 1778, the said Warren Hastings, under color that the Nabob had completed his twentieth year, and had desired to be placed in the entire and uncontrolled management of his own affairs, and that Mahomed Reza Khân should be removed from his office, and that Munny Begum, his step-mother, the dancing-girl aforesaid, " should take on herself the management of the *nizamut* [the government and general superintendency of criminal justice] without the interference of any person whatsoever," and notwithstanding the contradictions in the pretended applications from the Nabob, with whose incapacity for all affairs he was well acquainted, did, in defiance of the orders of the Court of Directors, and without regard to the infamy of an arrangement made for the evident and declared purpose of delivering not only the family with the prince, but the government and justice of a great kingdom, into such insufficient, corrupt, and scandalous hands, and though he has declared his opinion " that our na-

tional character is concerned in the character which the Nabob may obtain in the public opinion," on obtaining a majority in Council, without any complaint, real or pretended, remove the said Mahomed Reza from all his offices, and did partition his salary as a spoil in the following manner: to Munny Begum, the dáncing-girl aforesaid, an additional allowance of 72,000 rupees (7,200*l.*) a year; to the Nabob's own mother but half that sum, that is to say, 36,000 rupees (3,600*l.*) a year; to Rajah Gourdas, son of Nundcomar, (whom he had described as a weak young man,) 72,000 rupees (7,200*l.*) a year, as controller of the household; and to a magistrate called Sudder ul Hock, who, in real subserviency to the said Munny Begum, was nominally to act in the department of criminal justice, 78,000 rupees (7,800*l.*) a year: the total of which allowances exceeding the salary of Mahomed Reza Khân by 18,000 rupees (1,800*l.*) yearly, he did, for the corrupt and scandalous purposes aforesaid, order the same to be made up from the Company's treasury.

XIX. That Mr. Francis and Mr. Wheler having moved that the execution of the aforesaid arrangement, the whole expense of which, ordinary and extraordinary, was charged upon the Company's treasury, and therefore could not be even colorably disposed of at the pretended will of the said Nabob, might be suspended until the pleasure of the Court of Directors thereon should be known, and the same being resolved agreeably to law by a majority of the Council then present, the said Hastings, urging on violently the immediate execution of his corrupt project, and having obtained, by the return of Richard Barwell,

Esquire, a majority in Council in his own casting vote, did rescind the aforesaid resolution, and did carry into immediate execution the aforesaid most unwarrantable, mischievous, and scandalous design.

XX. That the consequences which might be expected from such a plan of administration did almost instantly flow from it. For the person appointed to execute one of the offices which had been filled by Mahomed Reza Khân did soon find that the eunuchs of Munny Begum began to employ their power with great superiority and insolence in all the concerns of government and the administration of justice, and did endeavor to dispose of the offices relative to the same for their corrupt purposes, and to rob the Nabob's servants of their due allowances; and in his letter of the 1st September, 1778, he sent a complaint to the board, stating, "that certain bad men had gained an ascendency over the Nabob's temper, by whose instigation he acts"; and after complaining of the slights he received from the Nabob, he adds: "Thus they cause the Nabob to treat me, sometimes with indignity, at others with kindness, just as they think proper to advise him; their view is, that, by compelling me to displeasure at most unworthy treatment, they may force me either to relinquish my station, or to join with them, and act by their advice, and appoint creatures of their recommendation to the different offices, from which they might draw profit to themselves."

XXI. That, in a subsequent letter to the Governor, the said Superintendent of Justice did inform him, the said Warren Hastings, of the audacious and

corrupt manner in which, by violence, fraud, and forgery, the eunuchs of Munny Begum had abused the Nabob's name, to deprive the judicial and executory officers of justice of the salaries which they ought to have drawn from the Company's treasury, in the following words: "The Begum's ministers, before my arrival, with the advice of their counsellors, caused the Nabob to sign a receipt, in consequence of which they received, at two different times, near 50,000 rupees [5,000*l.*], in the name of the officers of the Adawlut, Phousdary, &c., from the Company's sircars; and having drawn up an account-current *in the manner they wished*, they had got the Nabob to sign it, and sent it to me." And in the same letter he asserts, "that these people had the Nabob entirely in their power."

XXII. That the said Warren Hastings, upon this representation, did, notwithstanding his late pretended opinion of the fitness and the right of the Nabob to the sole administration of his own affairs, authoritatively forbid him from any interference therein, and ordered that the whole should be left to the magistrate aforesaid; to which the Nabob did, notwithstanding his pretended independence, yield an immediate and unreserved submission: for the said Hastings's order being given on the 1st of September at Calcutta, he received *an answer* from Moorshedabad on the 3d, in the following terms: "Agreeably to your pleasure, I have relinquished all concern with the affairs of the Phousdary and Adawlut, leaving the entire management in Sudder ul Hock's hands." Which said circumstance, as well as many others, abundantly proves that all the Nabob's actions were in truth and fact en-

tirely governed by the influence of the said Hastings, and that, however the said Hastings may have publicly discouraged the corrupt transactions of the said court, yet he did secretly uphold the authority and influence of Munny Begum, who did entirely direct, with his knowledge and countenance, all the proceedings therein. For

XXIII. That on the 13th of the same month of September he did receive a further complaint of the corrupt and fraudulent practices of the chief eunuch of the said Munny Begum; and these corrupt practices did so continue and increase, that on the 10th of October, 1778, he was obliged to confess, in the strongest terms, the pernicious consequences of his before-created unwarrantable and illegal arrangements; for, in a letter of that date to the Nabob, he expresses himself as follows. "At your Excellency's request, I sent Sudder ul Hock Khân to take on him the administration of the affairs of the Adawlut and Phousdary, and hoped by that means not only to have given satisfaction to your Excellency, but that, through his abilities and experience, these affairs would have been conducted in such manner as to have secured the peace of the country and the happiness of the people; and it is with the greatest concern I learn that this measure is so far from being attended with the expected advantages, that the affairs both of the Phousdary and Adawlut are in the greatest confusion imaginable, and daily robberies and murders are perpetrated throughout the country. This is evidently owing to the want of a proper authority in the person appointed to superintend them. I therefore addressed your Excellency on the importance and delicacy of

the affairs in question, and of the necessity of lodging full power in the hands of the person chosen to administer them; in reply to which your Excellency expressed sentiments coincident with mine; notwithstanding which, your dependants and people, actuated by *selfish and avaricious views, have by their interference so impeded the business as to throw the whole country into a state of confusion, from which nothing can retrieve it but an unlimited power lodged in the hands of the superintendent.* I therefore request that your Excellency will give the strictest injunctions to all your dependants not to interfere in any manner with any matter relative to the affairs of the Adawlut and Phousdary, and that you will yourself relinquish all interference therein, and leave them entirely to the management of Sudder ul Hock Khân: this is absolutely necessary to restore the country to a state of tranquillity." And he concluded by again recommending the Nabob to withdraw all interference with the administrator aforesaid: "otherwise a measure which I adopted at your Excellency's request, and with a view to your satisfaction and the benefit of the country, will be attended with quite contrary effects, and bring discredit on me."

XXIV. That the said Hastings, in the letter aforesaid, in which he so strongly condemns the acts and so clearly marks out the mischievous effects of the corrupt influence under which alone the Nabob acted, and under which alone, from his known incapacity, and his dependence on the person supported by the said Hastings, he could act, did propose to put all the offices of justice (which on another occasion he had requested him to *permit* to remain in the hands which

then held them) into his own disposal, — telling him, or rather the woman and eunuchs who governed him, "that, if his Excellency has any plan for the management of the affairs in future, be pleased to communicate it to me, and every attention shall be paid to give your Excellency satisfaction": by which means not only particular parts, as before, but the whole system of justice was to be afloat, and to be subject to the purposes of the aforesaid corrupt cabal of women and eunuchs.

XXV. That the Court of Directors, on receiving an account of the above arrangements, and being well apprised of the spirit, intention, and probable effect of the same, did, in a clear, firm, and decisive manner, express their condemnation of the measure, and their rejection and reprobation of all the pretended grounds and reasons on which the same was supported, — marking distinctly his prevarication and contradictions in the same, and pointing to him their full conviction of the unworthy motives on which he had made so shameful an arrangement: telling him, in the 17th paragraph of their general letter of the 4th of February, 1779, "The Nabob's letters of the 25th and 30th of August, of the 3d of September, and 17th of November, leave us no doubt of the *true* design of this *extraordinary* business being *to bring forward* Munny Begum, and again to invest her with improper power and influence, notwithstanding our former declaration, that *so great* a part of the Nabob's allowance had been embezzled and misapplied under her superintendence."

XXVI. That, in consequence of the censure and

condemnation of the unwarrantable measures of the said Warren Hastings by the Court of Directors, on the aforesaid and other weighty and substantial grounds, they did order and direct as follows, in the 20th paragraph of the general letter of the same date. "As we deem it for the welfare of the country that the office of Naib Subahdar be for the present continued, and that this high office should be filled by a person of wisdom, experience, and of approved fidelity to the Company, and as we have no reason to alter the opinion given of Mahomed Reza Khân in our letter of the 24th of December, 1776, we positively direct, that you forthwith signify to the Nabob Mobarek ul Dowlah our pleasure that Mahomed Reza Khân be immediately restored to the office of Naib Subahdar; and we further direct, that Mahomed Reza Khân be again assured of the continuance of our favor, so long as a firm attachment to the interest of the Company and a proper discharge of the duties of his station shall render him worthy of our protection."

XXVII. That the aforesaid direction did convey in it such evident and cogent reason, and was so far enforced by justice to individuals and by regard to the peace and happiness of the natives, as well as by the common decorum to be observed in all the transactions of government, that the said Hastings ought to have yielded a cheerful obedience thereto, even if he had not been by a positive statute, and his relation of servant to the Company, bound to that just submission. Yet the said Hastings did, without denying or evading any one of the reasons assigned by the Court of Directors, or controverting the scandalous

motives assigned by them for his conduct, contumaciously refuse obedience to the above positive order, on pretence that the Nabob, who, he had declared it on record "to be as visible as the light of the sun, is a mere pageant, and without even the shadow of authority," did dissent from the same; and he did encourage the said Nabob, or rather the eunuchs, the corrupt ministers of Munny Begum, to oppose himself and themselves to the authority of the said Court of Directors: by which means the arrangement, three times either ratified or expressly ordered by them, was wholly defeated; the aforesaid corrupt system was continued; Mahomed Reza Khân was not restored to his office; and a lesson was taught to the natives of all ranks, that the declared approbation, the avowed sanction, and the decided authority of the Court of Directors were wholly nugatory to their protection against the corrupt influence of their servants.

XXVIII. That the said Warren Hastings, on a reconciliation with Mr. Francis, one of the Council-General, who made it a condition thereof that certain of the Company's orders should be obeyed, and that Mahomed Reza Khân should be restored to his offices, did, a considerable time after, notwithstanding the pretended reluctance of the Nabob, and his pretended freedom, make, for his convenience in the said accommodation, the arrangement which he had unwarrantably and illegally refused to the orders of the Court of Directors, and did of his own authority and that of the board restore Mahomed Reza Khân to his offices.

XXIX. That soon after the departure of the said Mr. Francis he did again deprive the said Mahomed Reza Khân of his said offices, and did make several great changes in the constitution of the criminal justice in the said country; and after having, under pretence of the Nabob's sufficiency for the management of his own affairs, displaced, without any specific charge, trial, or inquiry whatsoever, the said Mahomed Reza Khân, he did submit the said Nabob to the entire direction, in all parts of his concerns, of a Resident of his own nomination, Sir John D'Oyly, Baronet, and did order an account of the most minute parts of his domestic economy to be made out, and to be delivered to the said Sir John D'Oyly, in the following words, contained in a paper by him intituled, INSTRUCTIONS from the Governor-General to the Nabob Mobarek ul Dowlah respecting his conduct in the management of his affairs. "You will be pleased to direct your *mutseddies* to form an account of the fixed sums of your monthly expenses, such as servants' wages in the different departments, pensions, and other allowances, as well as of the estimated amount of variable expenses, to be delivered to Sir John D'Oyly *for my inspection.* I have given such orders to Sir John D'Oyly as will enable him to propose to you such reductions of the pensions and other allowances, and such a distribution of the variable expenses, as shall be proportionable to the total sum of your monthly income; *and I must request you will conform to it.*" And he did, in the subsequent articles of his said instructions, order the whole management to be directed by Sir John D'Oyly, subject to his own directions as aforesaid; and did even direct what company he should keep;

and did throw reflections on some persons, in places the nearest to him, as of bad character and base origin, — persons whom he should decline to name as such, "unless he heard that they still availed themselves of his goodness to retain *the places* which they improperly hold near his person." And he did particularly order the said Nabob not to admit any English, but such as the said Sir John D'Oyly should approve, to his presence; and did repeat the said order in the following peremptory manner: "You *must forbid any* person of *that nation* to be intruded into *your* presence without *his* introduction." And he did require his obedience in the following authoritative style: "I shall think myself obliged to interfere *in another manner*, if you neglect it."

XXX. That he, the said Warren Hastings, did insult the captive condition of the said Nabob by informing him, in his imperious instructions aforesaid, that this total, blind, and implicit obedience, in every respect whatsoever, to Sir John D'Oyly and himself personally, and without any reference to the board, "was the very *conditions* of the compliance of the Governor-General and Council with his late requisition"; which requisition was, that he should enjoy *the free and uncontrolled* management of his own affairs. And though the said captive did offer, as he, the said Hastings, himself admits, *four lacs* of his stipend, at that time reduced to sixteen lac, for *the free use of the remainder*, yet he did place him, the said Nabob, in the state of servitude in the said instructions laid down but a very short time after he had assumed and used the said Nabob's independent rights as a ground for refusing to obey the Com-

pany's orders, — and although he has declared, or pretended, on another occasion, which he would have thought similar, that any attempt to limit the household expenses of the Nabob of Oude was an indignity, "which no man living, however mean his rank in life, or dependent his condition in it, would permit to be exercised by any other, without the want or forfeiture of every manly principle."

XXXI. That the said Warren Hastings did order the said stipend (which was to be distributed, in the minutest particular, according to the said Hastings's personal directions) to be paid monthly, not to any officer of the Nabob, but to the said Resident, Sir John D'Oyly. And whereas the Governor-General and Council did, on the appointment of Mahomed Reza Khân, according to their duty, instruct him, that "he do conform to the *orders* of the Company, which direct that an annual account of the Nabob's expenses be transmitted through the Resident at the Durbar, for the inspection of this *board*," the said Hastings, in making his new establishment in favor of his Resident, did wholly omit the said instruction, and did confine the said communication to *himself*, privately. And in fact it does not appear that any account whatsoever of the disposition of the said large sum, exceeding 160,000*l.* sterling a year, has been laid before the board, or at least that any such account has been transmitted to the Court of Directors; and it is not fitting that any British servant of the Company should have the management of any public money, much less of so great a sum, without a public well-vouched account of the specific expenditure thereof.

XXXII. That the Court of Directors did, on the 17th of May, 1766, propose certain rules for regulating the correspondence of the Resident with the Nabob of Bengal, in which they did direct, as a principle for the said regulations, as follows (paragraph 16th). "We would have his correspondence to be carried on with the *Select Committee* through the channel of the President: he should keep a diary of all his transactions. His correspondence with the natives *must be publicly conducted:* copies of *all* his letters, sent and received, be transmitted monthly to the Presidency, with duplicates and triplicates to be transmitted home in our general packet by every ship."

XXXIII. That the President and Select Committee (Lord Clive being then President) did approve of the whole substantial part of the said regulation (the diary excepted); and the principle, in all matters of account, ought to have been strictly adhered to, whatever limitations may have been given to the office of Resident. Yet he, the said Warren Hastings, in defiance of the aforesaid good rules, orders, and late precedent in conformity to the same, did not only withhold any order for the purpose, but, in order to carry on the business of the said durbar in a clandestine manner for his own purposes, did, as aforesaid, exclude all English from an intercourse with the Nabob, who might carry complaints or representations to the board, or the Court of Directors, of his condition, or the conduct of the Resident,—and did further, to defeat all possible publicity, insinuate to him to give the preference to verbal communication above letters, in the words

following, of the ninth article of his instructions to the Nabob: "Although I desire to receive your letters frequently, yet, as many matters will occur which cannot be *so easily explained by letters as by conversation*, I desire that you will on such occasions give your orders to him respecting such points as you may desire to have imparted to me; and I, postponing every other concern, will give an immediate and the most satisfactory reply concerning them." Accordingly, no relation whatsoever has been received by the Court of Directors of the said Nabob's affairs, nor any account of the money monthly paid, except from public fame, which reports that his affairs are in great disorder, his servants unpaid, and many of them dismissed, and all the Mussulmen dependent on his family in a state of indigence.

XVIII. — THE MOGUL DELIVERED UP TO THE MAHRATTAS.

I. THAT Shah Allum, the prince commonly called the Great Mogul, or, by eminence, *The King*, is, or lately was, in the possession of the ancient capital of Hindostan, and though without any considerable territory, and without a revenue sufficient to maintain a moderate state, he is still much respected and considered, and the custody of his person is eagerly sought by many of the princes in India, on account of the use to be made of his title and authority; and it was for the interest of the East India Company, that, while on one hand no wars shall be entered into in support of his pretensions, on the other no steps should be taken which may tend to deliver

him into the hands of any of the powerful states of that country, but that he should be treated with friendship, good faith, and respectful attention.

II. That Warren Hastings, in contradiction to this safe, just, and honorable policy, strongly prescribed and enforced by the orders of the Court of Directors, did, at a time when he was engaged in a negotiation the declared purpose of which was to give peace to India, concur with the captain-general of the Mahratta state, called Mahdajee Sindia, in hostile designs against the few remaining territories of that same Mogul emperor, by virtue of whose grant the Company actually possess the government and enjoy the revenues of great provinces, and also against the possessions of a Mahomedan chief called Nudjif Khân, a person of much merit with the East India Company, in acknowledgment of which they had granted him a pension, included in the tribute due to the king, and, together with that tribute, taken from him by the said Warren Hastings, though expressly *guarantied* to him by the Company. With both these powers the Company had been in friendship, and were actually at peace at the time of the said clandestine concurrence in a design against them; and the said Hastings hath since declared, that the right of one of them, namely, "the right of the Mogul emperor, to our assistance, has been constantly acknowledged."

III. That the said Warren Hastings, at the time of his treacherous concurrence in a design against a power which he was himself of opinion we were bound to assist, and against whom there was no

doubt he was bound neither to form nor to concur in any hostile attempt, did give a caution to Colonel Muir, to whom the negotiation aforesaid was intrusted on the part of the Company, against "inserting anything in the treaty which might *expressly* mark our *knowledge* of his [the Mahratta general's] views, *or concurrence in them.*" Which said transaction was full of duplicity and fraud; and the crime of the said Hastings therein is aggravated by his having some years before withheld the tribute which by treaty was solemnly agreed to be paid to the said king, on pretence that he had thrown himself, for the recovery of his city of Delhi, on the protection of the Mahrattas, whom the said Warren Hastings then called *the natural enemies* of the Company, and the growth of whose power he then alleged to be highly dangerous to the interests of this kingdom in India.

IV. That, after having concurred, in the manner before mentioned, in a design of the Mahrattas against the Mogul, and notwithstanding he, the said Warren Hastings, had formerly declared, "that with him [the Mogul] our connection had been a long time suspended, and *he wished never to see it renewed*, as it had proved a fatal drain to the wealth of Bengal and the treasury of the Company, without yielding one advantage or possible resource, even of remote benefits, in return," the said Warren Hastings did nevertheless, on or about the month of March, 1783, with the privity and consent of the members of the board, but by no authoritative act, dispatch, as agents of him, the Governor-General only, and not as agents of the Governor-General and Council, as they ought to have been, certain persons, among whom were Ma-

jor Browne and Major Davy, to the court of the king at Delhi, and did there enter into certain engagements with the said king by the means of those agents, and did carry on certain private and dangerous intrigues for various purposes, particularly for making war in favor of the said king against some powers or princes not precisely described, but which, as may be inferred from a subsequent correspondence, were certain Mahomedan princes in the neighborhood of Delhi in amity with the Company, and some of them at that time in the actual service and in the apparent confidence and favor of the said Mogul; and he did order Major Browne to offer to the Mogul king to provide for the *entire* expense of *any* troops the Shah [the said king] might require; and the proposal was accordingly accepted, with the conditions annexed: by which proposal and acceptance thereof the East India Company was placed in a situation of great and perplexing difficulty; since either they were to engage, at an unlimited *expense*, in new wars, contrary to their orders, contrary to their general declared policy, and contrary to the published resolutions of the House of Commons, and wholly incompatible with the state of their finances, or, to preserve peace, they must risk the imputation of a new violation of faith, by departing from an agreement made on the voluntary proposal of their own government,—the agent of the said Hastings having declared, in his letter to the said Hastings, by him communicated to the board, "that the business of assisting the Shah [the Mogul emperor] can and *must* go on, if we wish to be secure in India, or regarded as a nation of faith and honor."

V. That the said Warren Hastings did, on the 20th day of January, 1784, send in circulation to the other members of the Council a letter to him from his agent, Major Browne, dated at Delhi, on the 30th of December, 1783, viz., that letter to which the foregoing references are made, in which the said Browne did directly press, and indirectly (though sufficiently and strongly) suggest, several highly dangerous measures for realizing the general offers and engagements of the said Warren Hastings,—proposing, that, besides a proportion of field artillery, and a train of battering cannon for the purpose of sieges, six regiments of sepoys in the Company's service should be transferred to that of the said king, and that certain other corps should also be raised for the said service in the English provinces and dependencies, to be immediately under the king's [the Mogul's] orders, and to be maintained by assignments of territorial revenue within the province of Oude, a dependent member of the British government, but with a caution against having any British officer with the same; the said Major Browne expressing his caution as followeth: "If any European officer *be* with this corps, a very nice judgment indeed must direct the choice; for scarce any are in the smallest degree *fit* for *such* employ, but much more likely to do harm than good." And the letter aforesaid being without any observation thereon, or any disavowal of the matters of fact or of the counsels so strongly and authoritatively delivered therein by the said Warren Hastings's agent, and without any mark of disapprobation of any part of his plan, whether that of the assignment of territory belonging to the Company's allies for the maintenance of troops which were to be by that plan put

under the orders of a foreign independent power, or that of employing the said troops without any British officer with them, or for his alarming observation by him entered on the Company's records, which, if not an implied censure on the nature of the service in which British officers are supposed improper to be trusted, is a strong reflection on the character of the British officers, which was to render them unfit to be employed in an honorable service, — the said Warren Hastings did thereby give a countenance to the said unwarrantable and dangerous proposals and reflections.

VI. That a considerable time before the production and circulation of Major Browne's letter, the said Hastings did enter a Minute of Consultation containing a proposition similar in the general intent to that in the said letter contained for assisting the Mogul with a military force; but the other members of the board did disagree thereto, and, being alarmed at the disposition so strongly shown by the said Hastings to engage in new wars and dangerous foreign connections, and possibly having intelligence of the proceedings of his agent, did call upon him to produce his instructions to Major Browne; and he did, on the 5th of October, 1783, and not before, enter on the Consultations a certain paper purporting to be the instructions which he had given to Major Browne the preceding March, the time of his, the said Browne's, appointment, in which pretended instructions no direction whatsoever was given to the effect of his, the said Hastings's, Minute of Consultation propounded: that is to say, no power was given in the said instructions to make a direct offer of military aid to the

Mogul, or to form the arrangements stated by the said Browne, in his letter to the said Hastings, as having been made by the express authority of the said Hastings himself; but the said instructions contained nothing further on that subject but a conditional direction, that, in case a military force should be required for the Mogul's aid or protection, the Major is to know the service on which it is to be employed, and the resources from whence it is to be paid; and the instructions produced as his real instructions by the said Hastings are so guarded as to caution the said Browne against *taking any part in the intrigues of those who are about the king's person.* By which letters, instructions, and transactions, compared with each other, it appears that the said Warren Hastings, after six months' delay in entering of (contrary to the Company's order) any instructions to the said Browne, did at last enter a false paper as the true, or that he did give other secret instructions, totally different from, and even opposite to, his public ostensible instructions, thereby to deceive the Council, and to carry on with less obstruction dark and dangerous intrigues, contrary to the orders of the Court of Directors, to the true policy of this kingdom, and to the safety of the British possessions in the East.

VII. That the said letter from Major Browne was by the said Warren Hastings transmitted to the Court of Directors, without being accompanied by any part of the previous correspondence; by which wilful concealment the said Warren Hastings is guilty of an high and criminal disrespect to the Court of Directors, and of a most flagrant breach and violation of their orders, which he was bound by an act of Parliament to obey.

VIII. That the said Hastings having early in the year 1784 procured to himself a deputation to act in the upper provinces, the Council, being well aware of his disposition to engage in unwarrantable designs against the neighboring states, did expressly confine his powers to the circumstance of his actual residence within the Company's provinces. But it appears that ways were found out by which he hoped to defeat the precautions of the board: for the said Warren Hastings did write from Lucknow, the capital of the country of Oude, to the Court of Directors, a certain postscript of a letter, dated the 4th of May, 1784, in which he informs the Court that the son and heir-apparent of the Great Mogul had taken refuge with him and the Nabob of Oude; that he had a conference with that prince on the 10th of the same month of May, "no person being either present or within hearing" during the same; and that in the said conference the prince had informed him of the distresses of his father, and his wish for the relief of the king and the restoration of the dominions of his house, as well as to rescue him from the power of certain persons not named, who degraded him into a mere instrument of their interested and sordid designs, and that, on a failure of his application to him, he would either return to his father, or proceed to Calcutta, and thence to England; and that the said Warren Hastings did give him an answer to the following effect: "That our [the British] government had just obtained relief from a state of universal warfare, and required a term of repose; that our whole nation was weary of war, and dreaded the renewal of it, *and would be equally alarmed at any movement of which it could not see the issue or progress.*

but which might eventually tend to create new hostilities; that he came hither [to Lucknow] with a limited authority, and could not, if he chose it, engage in a business of that nature *without the concurrence of his colleagues in office, who he believed would be adverse to it;* that he would represent the same to the joint members of his own government, and wait their determination. In the mean time he advised the prince to make advances to Mahdajee Sindia, both because our government *was in intimate and sworn connection* with him, and because he was the effectual head of the Mahratta state; besides that he [the said Warren Hastings] feared his [Sindia's] taking the other side of the question, unless he was early prevented."

IX. That in the statement of this discourse there is much criminal reserve towards the Court of Directors, — it not appearing distinctly what the objects were, nor who the persons concerned, nor what the side was which he apprehended the Mahrattas might take, if not prevented by his advances; and in the discourse itself there were many particulars highly criminal, namely, — for that in the said conversation, in which he describes himself as declining a compliance with the request of the prince on account of the aversion (therein strongly expressed) of his colleagues, of the Company, and of the whole British nation, to engage in any measures which might even "*eventually lead to hostilities,*" he spoke to the prince as if he had been entirely ignorant of the offers which but five months before had been made to the king, his father, on the part of that very government, (whose repugnance to such measures he then for the

first time chose to profess, but which he always had known,) through Major Browne, the Company's representative at the court of Delhi, "to provide for the *entire* expense of *any* troops which the Shah [the king] might require," and that this was "what the Resident had *always* proposed to the king and his confidential ministers," — the said Browne further declaring, "that, if, in consequence of the said proposals, certain arrangements for the Shah's service by *troops* were not immediately ordered, in his opinion all our [English government's] *offers and promises* will be considered as false and insidious." This being the known state of the business, as represented by the said Hastings's own agent, and this the public opinion of it, although to impose on the ignorance of the prince with regard to the proceedings at his father's court would have been unworthy in itself, yet he, the said Warren Hastings, could not hope to succeed in such imposition, as in the postscript aforesaid he represents the said prince (who was the king's eldest son, and thirty-six years of age) as a person of considerable qualifications, and perfectly acquainted with the transactions at his father's court, and as one who had long held the *principal* and most active part in the little that remained of *the administration of Shah Allum*. And the said Hastings conferring with a prince so well instructed, without making the slightest allusions to his said positive and recent engagements, or without giving any explanation with regard to them, the said Warren Hastings must appear to the said prince either as a person not only contracting engagements, but actually being the first mover and proposer of them, without any authority from *his colleagues*, and against theirs and the gen-

eral inclination of the British nation, and on that ground not to be trusted, or that he had used this plea of disagreement between him and his Council as a pretence, set up without color or decency, for a gross violation of his own engagements, leaving the princes and states of the country no solid ground on which they can or ought to contract with the Company, to the utter destruction of all public confidence, and to the equal disgrace of the national candor, integrity, and wisdom.

X. That in a letter dated from the same place, Lucknow, the 16th of the following June, 1784, the said Warren Hastings informs the Court of Directors, that Major Browne, their agent to the Mogul, had arrived there in the character also of agent from the Mogul, with two sets of instructions from two opposite parties in his ministry, which instructions were directly contrary to each other: the first, which were the ostensible instructions, being to engage the said Hastings, in the Mogul's name, to enter into a treaty of mutual alliance with a chief of the country, then minister to the said Mogul, called Afrasaib Khân; the second were from another principal person, called Mudjed ul Dowlah, also a minister of the said Mogul, (but styled in the said letter *confidential*, for distinction,) which were directly destructive of the former; and the said latter instructions, to which it seems credence was to be given, were sent "under the most solemn adjurations of secrecy." The purpose of these latter and secret instructions was to require the Company's aid in freeing the Mogul from the oppressions of his servants, namely, from the oppressions of the said Afrasaib, between whom and the Com-

pany Major Browne (at once agent to that Company, and to two opposite factions in the Mogul's court) accepted a power to make a treaty of mutual alliance under the sanction of his sovereign. And it does not appear that he, Warren Hastings, did discountenance the double-dealing and fraudulent agencies of his and the Company's minister at that court, or did disavow any particular in the letter from him, the said Browne, of the 30th of December, 1783, stating the offers made on his part to the Mogul, so contradictory to his late declarations to the heir-apparent of that monarch, or did give any reprimand to the said Browne, or did show any mark of displeasure against him, as having acted without orders, but did again send him, with renewed confidence, to the court aforesaid.

XI. That the said Warren Hastings, still pursuing his said evil designs, did apply to the Council for discretionary powers relative to the intrigues and factions in the Mogul's court, giving assurances of his resolution not to proceed against their sense; but the said Council, being fully aware of his disposition, and having Major Browne's letter, recorded by himself, the said Warren Hastings, before them, did refuse to grant the said discretionary powers, but, on the contrary, did exhort him "most sedulously and cautiously to avoid, in his correspondence with the different princes in India, whatever may commit, or be strained into an interpretation of committing the Company, either as to their army or treasure,"— observing, "that the Company's orders are positive against their interference in the objects of dispute between the country powers."

XII. That, in order to subvert the plain and natural interpretation given by the Council to the orders of the Court of Directors, and to justify his dangerous intrigues, the said Warren Hastings, in his letter of the 16th June, 1784, to the said Court, did, in a most insolent and contemptuous manner, endeavor to persuade them of their ignorance of the true sense of their own orders, and to limit their prohibition of interference with the disputes of the country powers to such country powers as are *permanent*, — expressing himself as follows: "The faction which now surrounds the throne [the Mogul's throne] is widely different from the idea which your commands are intended to convey by the expressions to which you have generally applied them, of *country powers*, to which that of *permanency is a necessary adjunct*, and which may be more properly compared to a splendid bubble, which the slightest breath of opposition may dissipate with every trace of its existence." By which construction the said Hastings did endeavor to persuade the Court of Directors that they meant to confine their prohibition of sinister intrigues to those powers only who could not be easily hurt by them, and whose strength was such that their resentment of such clandestine interference was to be dreaded; but that, where the powers were weak and fragile, such intrigues might be allowed.

XIII. That the said Hastings, further to persuade the Court of Directors to involve themselves in the affairs of the Mogul, and to reconcile this measure with his former conduct and declared opinions, did write to them to the following effect: That "at that former period to which the ancient policy with regard

to the Mogul applied, the king's authority was sufficiently respected" (which he knew not to be true, — having himself declared, in his minute of the 25th of October, 1774, "that he remained at Delhi, the ancient capital of the empire, *a mere cipher* in the administration of it") to maintain itself against common vicissitudes; that he would not have advised interference, if the king himself retained the exercise of it, *however feeble*, in his own hands; that, if it [the Mogul's authority] is suffered to receive its final extinction, it is impossible to foresee *what power may arise out of its ruins*, or what events may be linked in the same chain of revolution with it: but your interests *may* suffer by it, your reputation *certainly will*, as his right to our assistance *has been constantly acknowledged*, and by a train of consequences to which our government has not intentionally given birth, but most especially by the movements which *its influence, by too near an approach*, has excited, it has unfortunately become the efficient instrument of a great portion of the king's present distresses and dangers," — intimating (as well as the studied obscurity of his expressions will permit anything to be discerned) that his own late intrigues had been among the causes of the distresses and dangers, which by new intrigues he did pretend to remove: and he did conclude this part of his letter with some loose general expressions of his caution not to affect the Company's interests or revenues by any measures he might at that time take.

XIV. That the principle, so far as the same hath been directly avowed, of the said proceedings at the Mogul's court, was as altogether irrational, and the pretended object as impracticable, as the means taken

in pursuit of it were fraudulent and dishonorable, namely, the restoration of the Mogul in some degree to the dignity of his situation, and to his free agency in the conduct of his affairs. For the said Hastings, at the very time in which he did with the greatest apparent earnestness urge the purpose which he pretended to have in view with regard to the dignity and liberty of the Mogul emperor, did represent him as a person wholly disqualified, and even indisposed, to take any active part whatsoever in the conduct of his own affairs, and that any attempt for that purpose would be utterly impracticable; and this he hath stated to the Court of Directors as a matter of public notoriety, in his said letter of the 16th of June, 1784, in the following emphatical and decisive terms.

"*You need not be told* the character of the king, whose inertness, and the habit of long-suffering, has debased his dignity and the fortunes of his house *beyond the power of retrieving either the one or the other.* Whilst his personal repose is undisturbed, he will *prefer* to live in *the meanest state of indigence*, under the rule of men whose views are bounded by avarice and the power which they derive from his authority, rather than commit any share of it to his own sons, (though his affection for them is boundless in every other respect,) from a natural jealousy, founded on the experience of a very different combination of those circumstances which once served as a temptation and example of unlawful ambition in the princes of the royal line. His ministers, from a policy more reasonable, have constantly employed every means of influence to confirm this disposition, and to prevent his sons from having any share in the distribution of affairs, so as to have established a complete usurpation

of the royal prerogative under its own sanction and patronage."

XV. That the said Warren Hastings, having given this opinion of the sovereign for whose freedom he pretended so anxious a concern, did describe the minister with whom he had long acted in concurrence, and from whom he had just received the extraordinary secret embassy aforesaid for the purpose of effecting the deliverance of his master, the Mogul, from the usurpations of *his ministers*, as follows. "The first minister, Mudjed ul Dowlah, is *totally* deficient in every military quality, conceited of his own superior talents, and formed to the practice of *that crooked policy which generally defeats its own purpose*, but sincerely attached to his master." The reality of the said attachment was not improbable, but altogether useless, as the said minister was the only one among the principal persons about the king who (besides the total want of all military and civil ability) possessed no territories, troops, or other means of serving and supporting him, but was himself solely upheld by his influence over his master: neither doth the said Hastings free him, any more than the persons more efficient, who were to be destroyed, from a disposition to alienate the king from an attention to his affairs, and from all confidence in his own family; but, on the contrary, he brings him forward as the very first among the instances he adduces to exemplify the practices of the ministers against their sovereign and his children.

XVI. That the said Warren Hastings, recommending in general terms, and yet condemning in detail,

every part of his own pretended plan, as impracticable in itself, and as undertaken in favor of persons all of whom he describes as incapable, and the principal as indisposed to avail himself thereof, must have had some other motives for this long, intricate, dark, and laborious proceeding with the Mogul, which must be sought in his actions, and the evident drift and tendency thereof, and in declarations which were brought out by him to serve other purposes, but which serve fully to explain his real intentions in this intrigue.

XVII. That the other members of the Council-General having abundantly certified their averseness to his intrigues, and even having shown apprehensions of his going personally to the Mogul and the Mahrattas for the purpose of carrying on the same, the said Hastings was driven headlong to acts which did much more openly indicate the true nature and purpose of his machinations. For he at length recurred directly, and with little disguise, to the Mahrattas, and did open an intrigue with them, although he was obliged to confess, in his letter aforesaid of the 16th June, 1784, that the exception which he contended to be implied in the orders of the Court of Directors forbidding the intermeddling in the disputes of "the country powers," namely, "powers not permanent," did by no means apply to the Mahrattas; and he informs the Court of Directors that he did, on the very first advice he received of the flight of the Mogul's son, write to Mr. James Anderson to apprise the Mahratta chief, Sindia, of that event,—"for which as he was unprepared, he desired his [the said Sindia's] advice for his conduct on the occasion of it." Which method of calling for the advice of a

foreign power to regulate his political conduct, instead of being regulated therein by the advice of the British Council and the standing orders of the Court of Directors, was a procedure highly criminal; and the crime is aggravated by his not communicating the said correspondence to the Council-General, as by his duty he was bound to do; but it does abundantly prove his concert with the Mahrattas in all that related to his negotiations in the Mogul court, which were carried on agreeably to their advice, and in subserviency to their views and purposes.

XVIII. That, in consequence of the cabal begun with the Mahrattas, the said chief, Sindia, did send his "familiar and confidential ministers" to him, the said Hastings, being at Lucknow, with whom the said Hastings did hold several secret conferences, without any secretary or other assistant: and the said Hastings hath not conveyed to the Court of Directors any minutes thereof, but hath purposely involved even the general effect and tendency of these conferences in such obscurity that it is no otherwise possible to perceive the drift and tendency of the same, but by the general scope of councils and acts relative to the politics of the Mogul and of the Mahrattas together, and by the final event of the whole, which is sufficiently visible. For

XIX. That the said Hastings had declared, in his said letter of the 16th June, 1784, that the Mogul's right to our assistance had been constantly acknowledged, that the Mogul had been oppressed by the lesser Mahomedan princes in the character of his officers of state and military commanders, and he did

plainly intimate that the said Mogul ought to be relieved from that servitude. And he did, in giving an account to the Court of Directors of the conferences aforesaid, assure them that "his inclinations [the inclinations of the Mahratta chief aforesaid] were not very dissimilar from his own"; and that "neither in this nor in any other instance would he suffer himself to be drawn into measures which shall tend to weaken their connection, nor *in this even to oppose his* [the said chief's] *inclinations*": the said Hastings well knowing, as in his letter to Colonel Muir of the —— he has confessed, that the inclinations of the said Sindia were to seize on the Mogul's territories, and that he himself did secretly concur therein, though he did not formally insert his concurrence in the treaty with the said Mahratta chief. It is plain, therefore, that he did all along concur with the Mahrattas in their designs against the said king and his ministers, under the treacherous pretence of supporting the authority of the former against the latter, and did contrive and effect the ruin of them all. For, first, he did give evil and fraudulent counsel to the heir-apparent of the Mogul "to make advances to the Mahrattas," when he well knew, and had expressly concurred in, the designs of that state against his father's, the Mogul's, dominions; and further to engage and entrap the said prince, did assert that "our government" (meaning the British government) "was in intimate and sworn connection with Mahdajee Sindia," when no alliance, offensive or defensive, appears to exist between the said Sindia and the East India Company, nor can exist, otherwise than in virtue of some secret agreement between him, the said Sindia, and Warren Hastings, entered

into by the latter without the knowledge of his colleagues and the government, and never communicated to the Court of Directors. And, secondly, he did, in order to further the designs of the Mahrattas, contrive and effect the ruin of the said Mogul and his authority, by setting on foot, through the aforesaid Major Browne, sundry perplexed and intricate negotiations, contrary to public faith, and to the honor of the British nation; by which he did exceedingly increase the confusion and disorders of the Mogul's court, exposing the said Mogul to new indignities, insults, and distresses, and almost all of the northern parts of India to great and ruinous convulsions, until three out of four of the principal chieftains, some of them possessing the territories lately belonging to Nudjif Khân, and maintaining among them eighty thousand troops of horse and foot, and some of which chiefs were the ministers aforesaid, being cut off by their mutual dissensions, and the fort of Delhi being at length delivered to the Mahrattas, the said Sindia became the uncontrolled ruler of the royal army, and the person of the Mogul, with the use of all his pretensions and claims, fell into the hands of a nation already too powerful, together with an extensive territory, which entirely covers the Company's possessions and dependencies on one side, and particularly those of the Nabob of Oude.

XX. That the circumstances of these countries did, in the opinion of the said Warren Hastings himself, sufficiently indicate to him the necessity of not aggrandizing any power whatsoever on their borders, he having in the aforesaid letter of the 16th June given a deliberate opinion of the situation of Oude in

the words following: "That, whilst we are at peace with the powers of Europe, it is only in this quarter that your possessions under the government of Bengal are vulnerable." And he did further in the said letter state, that, "if things had continued as they had been to that time, with a divided government," (viz., the Company's and the Vizier's, which government he had himself established, and under which it ever must in a great degree remain, whilst the said country continues in a state of dependence,) "the *slightest* shock from a foreign hand, or even an *accidental internal commotion*, might have thrown the whole into confusion, and produced the most fatal consequences." In this perilous situation he made the above-recited sacrifices to the ambition of the Mahrattas, and did all along so actively countenance and forward their proceedings, and with so full a sense of their effect, that in his minute of the 24th December, 1784, he has declared, "that in the countries which border on the dominions of the Nabob Vizier, or on that quarter of our own, in effect *there is no other power*." And he did further admit, that the presence of the Mahratta chief aforesaid, so near the borders of the Nabob's dominions, was no cause of suspicion; for "that it is the effect *of his own solicitation*, and is *so far* the effect of an act of that government."

XXI. That, in further pursuit of the same pernicious design, he, the said Warren Hastings, did enter into an agreement to withdraw a very great body of the British troops out of the Nabob's dominions,—asserting, however truly, yet in direct contradiction to his own declarations, that "this government" (meaning the British government) "has not any right to

force defence with its maintenance upon him" (the Nabob); and he did thus not only avowedly aggrandize the Mahratta state, and weaken the defence upon the frontier, but did as avowedly detain their captain-general in force on that very frontier, notwithstanding he was well apprised that they had designs against those dependent territories of Oude, which they had with great difficulty been persuaded, even in appearance, to include in the treaty of peace,—and that they have never renounced their claims upon certain large and valuable portions of them, and have shown evident signs of their intentions, on the first opportunity, of asserting and enforcing them. And, finally, the said Warren Hastings, in contradiction to sundry declarations of his own concerning the necessity of curbing the power of the Mahrattas, and to the principle of sundry measures undertaken by himself professedly for that purpose, and to the sense of the House of Commons, expressed in their resolution of 28th May, 1782, against any measures that tended to unite the dangerous powers of the Mahratta empire under one active command, has endeavored to persuade the Company, that, "while Sindia lives, every accession of territory obtained by him will be an advantage to this [the British] government"; which if it was true as respecting the personal dispositions of Sindia, which there is no reason to believe, yet it was highly criminal to establish a power in the Mahrattas which must survive the man in confidence of whose personal dispositions a power more than personal was given, and which may hereafter fall into hands disposed to make a more hostile use of it.

XXII. That, in consequence of all the before-

recited intrigues, the Mogul emperor being in the hands of the Mahrattas, he, the said Mogul, has been obliged to declare the head of the Mahratta state to be vicegerent of the Mogul empire, an authority which supersedes that of Vizier, and has thereby consolidated in the Mahratta state all the powers acknowledged to be of legal authority in India; in consequence of which, they have acquired, and have actually already attempted to use, the said claims of general superiority against the Company itself, — the Mahrattas claiming a right in themselves to a fourth part of the revenues of all the provinces in the Company's possession, and claiming, in right of the Mogul, the tribute due to him: by which actings and doings the said Hastings has to the best of his power brought the British provinces in India into a dependence on the Mahratta state: and in order to add to the aforesaid enormous claims a proportioned force, he did never cease, during his stay in India, to contrive the means for its increase; for it is of public notoriety, that one great object of the Mahratta policy is to unite under their dominion the nation or religious sect of the Seiks, who, being a people abounding with soldiers, and possessing large territories, would extend the Mahratta power over the whole of the vast countries to the northwest of India.

XXIII. That the said Warren Hastings, further to augment the power of the said Mahrattas, and to endanger the safety of the British possessions, having established in force the said Mahrattas on the frontier, as afore-recited, and finding the Council-General averse in that situation to the withdrawing the British forces therefrom, and for disbanding them to

the extent required by the said Hastings, did, in a minute of the 4th December, 1784, after stating a supposition, that, contrary to his opinion, the said troops should not be reduced, propose to employ them under the command of the Mogul's son, then under the influence of the Mahrattas, in a war against the aforesaid people or religious sect called Seiks, defending the same on the following principles: "I feel the sense of an obligation, imposed on me by the supposition I have made, to state a mode of rendering the detachment of use in its prescribed station, and of affording the *appearance* of a cause for its retention."

XXIV. That the said Hastings did admit that there was no present danger to the Company's possessions from that nation which could justify him in such a war, as he had declared that the Mahrattas were *the only power* that bordered on the Company's possessions and those of the Vizier; but he did assign as a reason for going to war with them their military and enthusiastic spirit, — the hardiness of their natural constitution, — the dangers which might arise from them in some future time, if they should ever happen to be united under one head, they existing at present in a state little different from anarchy; and he did predict great danger from them, and at no very remote period, "if this people be permitted to grow into maturity without interruption." And though he doth pretend that the solicitations of the heir-apparent of the Mogul, who, he says, did repeatedly and earnestly solicit him to obtain the permission to use the Company's troops for the purpose aforesaid, had weight with him, yet he doth declare, as he expresses himself in the minute aforesaid, that "*a*

stronger impulse, arising from the hope of *blasting the growth* of a generation whose strength *might* become fatal to our own, strongly pleaded in my mind for supporting his wishes."

XXV. That the said Warren Hastings, after forcibly recommending the plan aforesaid, did state strong objections, that did, "in his judgment, outweigh the advantages which might arise from a compliance with it." Yet the said Hastings, being determined to pursue his scheme for aggrandizing at any rate the Mahratta power, in whose adult growth and the recent effects of it he could see no danger, did pursue the design of war against a nation or sect of religion in its infancy, from whom he had received no injury, and in whose present state of government he did not apprehend any mischief whatsoever; and finding the Council fixed and determined on not disbanding the frontier regiments, and thinking that therein he had found an advantage, he did ground thereon the following proposition.

"If the expense [of the frontier troops] is to be continued, it may be surely better continued for some useful purpose than to keep up the parade of a great military corps designed merely to lie inactive in its quarters. On this ground, therefore, and on the supposition premised, I revert to my original sentiments in favor of the prince's plan; but as this will require some qualification in the execution of it, I will state my recommendation of it in the terms of a proposition, viz., that, if it shall be the resolution of the board to continue the detachment now under the command of Colonel Sir John Cumming at Furruckabad, and if the prince Mirza Jehander Shah shall apply, *with the authority of the king, and the concurrence*

of Mahdajee Sindia, for the assistance of an English military force, to act in conjunction with him, to expel the Seiks from the territories of which they have lately possessed themselves in the neighborhood of Delhi, it may be granted, and such a portion of the said detachment allotted to that service as shall be hereafter judged adequate to it."

XXVI. That the said Warren Hastings did, in the said proposal, endeavor to circumvent and overreach the Council-General, by converting an apparent and literal compliance with their resolution into a real and substantial opposition to and disappointment thereof. For his first proposal was, to withdraw the Company's troops from the Vizier's country on the pretence of relieving him from the burden of that establishment, but in reality with a view of facilitating the Mahratta pretensions on that province, which would then be deprived of the means of defence. And when the Council rejected the said proposal on the express ground of danger to the province by withdrawing from the Mahrattas the restraint of our troops, the said Hastings, finding his first scheme in favor of the Mahrattas against the provinces dependent on the Company defeated by the refusal of the Council to concur in the said measure of withdrawing the troops, did then endeavor to obtain the same purpose in a different way; and instead of leaving the troops, according to the intention and policy of the Council, as a check to the ambition and progress of the Mahrattas, he proposed to employ them in the actual furtherance of those schemes of aggrandizement of which his colleagues were jealous, and which it was the object of their resolution to counteract.

XXVII. That, in the whole of the letters, negotiations, proposals, and projects of the said Warren Hastings relative to the Mogul, he did appear to pursue but one object, namely, the aggrandizement of the lately hostile and always dangerous power of the Mahrattas, and did pursue the same by means highly dishonorable to the British character for honor, justice, candor, plain-dealing, moderation, and humanity.

XIX. — LIBEL ON THE COURT OF DIRECTORS.

I. That Warren Hastings, Esquire, was, during the whole of the year 1783, a servant of the East India Company, and was bound by the duties of that relation not only to yield obedience to the orders of the Court of Directors, but to give to the whole of their service an example of submission, reverence, and respect to their authority; and that, if they should in the course of their duty call in question any part of his conduct, he was bound to conduct his defence with temper and decency; and while his conduct was under their consideration, it was not allowable to print and publish any of his letters to them without their consent first had and obtained; and he was bound by the same principles of duty, enforced by still more cogent reasons, to observe, in a paper intended for publication, great modesty and moderation, and to treat the said Court of Directors, his lawful masters, with respect.

II. That the said Warren Hastings did print and publish, or cause to be printed and published, at Calcutta in Bengal, the narrative of his transactions

at Benares, in a letter written at that place, without leave had of the Court of Directors, in order to preoccupy the judgment of the servants in that settlement, and to gain from them a factious countenance and support, previous to the judgment and opinion of the Court of Directors, his lawful superiors.

III. That the Court of Directors, having come to certain resolutions of fact relative to the engagements subsisting between them and the Rajah of Benares, and the manner in which the same had been fulfilled on the part of the Rajah, did, in the fifth resolution, which was partly a resolution of opinion, declare as follows: "That it appears to this Court that the conduct of the Governor-General towards the Rajah, whilst he was at Benares, was improper; and that the imprisonment of his person, thereby disgracing him in the eyes of his subjects and others, was unwarrantable and highly impolitic, and may tend to weaken the confidence which the native princes of India ought to have in the justice and moderation of the Company's government."

IV. That the said resolutions being transmitted to the said Warren Hastings, he, the said Warren Hastings, did write, and cause to be printed and published, a certain false, insolent, malicious, and seditious libel, purporting to be a letter from him, the said Warren Hastings, to the Court of Directors, dated Fort William, 20th March, 1783, "calculated," as the Directors truly affirm, "to bring contempt, as well as an odium, on the Court of Directors, for their conduct on that occasion"; and the said libel had a direct tendency to excite a spirit of disobe-

dience to the lawful government of this nation in India through all ranks of their service.

V. That he, the said Warren Hastings, among other insolent and contumacious charges and aspersions on the Court of Directors, did address them in the printed letter aforesaid as follows. "I deny that Rajah Cheyt Sing was a native prince of India. Cheyt Sing is the son of a collector of the revenue of that province, which his arts, and the misfortunes of his master, enabled him to convert to a permanent and hereditary possession. This man, whom *you have thus ranked among the princes* of India, will be astonished, when he hears it, at an elevation so unlooked for, nor less at the independent rights which *your* commands have assigned him, — rights which are *so foreign to his conceptions, that I doubt whether he will know in what language to assert them, unless* the example which *you have thought it consistent with justice, however opposite to policy, to show, of becoming his advocates against your own interests, should inspire any of your own servants to be his advisers and instructors.*" And he did further, to bring into contempt the authority of the Company, and to excite a resistance to their lawful orders, frame a supposition that the Court of Directors had intended the restoration of the Rajah of Benares, and on that ground did presume in the said libel to calumniate, in disrespectful and contumelious terms, the policy of the Court of Directors, as well as the person whom he did conceive to be the object of their protection, as followeth. "Of the consequences of such a policy I forbear to speak. *Most happily, the wretch whose hopes may be excited by the appearances in his favor is*

ill qualified to avail himself of them, and *the force which is stationed in the province of Benares is sufficient to suppress any symptoms of internal sedition;* but it cannot fail to create distrust and suspense in the minds both of the rulers and of the people, and such a state is always productive of disorder. But it is not in this partial consideration that I dread the effects of your commands; it is in your proclaimed indisposition against the first executive member of your first government in India. I almost shudder at the reflection of what might have happened, had these denunciations against your own minister, in favor of a man universally considered in this part of the world as justly attainted for his crimes, the murderer of your servants and soldiers, and the rebel to your authority, arrived two months earlier."

VI. That the said Warren Hastings did also presume to censure and asperse the Court of Directors for the moderate terms in which they had expressed their displeasure against him, as putting him under the necessity of stating in his defence a strong accusation against himself, and as implying in the said Court a consciousness that he was not guilty of the offences charged upon him, — being, as he asserts, in the resolutions of the Court of Directors, "arraigned and prejudged of *a violation of national faith, in acts of such complicated aggravation*, that, *if they were true*, no punishment SHORT OF DEATH could atone for the injury which the interest and credit of the public had sustained in them"; and he did therefore censure the said Court for applying no stronger or more criminating epithets than those of "improper, unwarrantable, and highly impolitic," to an

offence so by them charged, and by him described. And though it be true that the expressions aforesaid are much too reserved for the purpose of duly characterizing the offences of the said Hastings, yet was it *in him* most indecent to libel the Court of Directors for the same; and his implication, from the tenderness of the epithets and descriptions aforesaid used towards him, was not only indecent, but ungrounded, malicious, and scandalous, — he having himself highly, though truly, aggravated "the charge of the injuries done by him to the Rajah of Benares," in order to bring the said Directors into contempt and suspicion, the paragraphs in the said libel being as follow. — "Here I must crave leave to say, that the terms 'improper, unwarrantable, and highly impolitic' are much too gentle, as deductions from such premises; and as every reader of the latter will obviously feel, as he reads, the deductions which inevitably belong to them, I will add, that the strict performance of solemn engagements on one part, followed by acts directly subversive of them and by total dispossession on the other, stamps on the perpetrators of the latter the guilt of the greatest possible violation of faith and justice." — "There is an appearance of tenderness in this deviation from plain construction, of which, however meant, I have a right to complain; because it imposes on me the necessity of framing the terms of the accusation against myself, which you have only not made, but have stated the leading arguments to it so strongly, that no one who reads these can avoid making it, *or not know it to have been intended.*"

VII. That the said Hastings, being well aware that

his own declarations did contain the clearest condemnation of his own conduct from his own pen, did in the said libel attempt to overturn, frustrate, and render of none effect all the proofs to be given of prevarication, contradiction, and of opposition of action to principle, which can be used against men in public trust, and did contend that the same could not be used against him; and as if false assertions could be justified by factious motives, he did endeavor to do away the authority of his own *deliberate, recorded* declarations, entered by him *in writing* on the Council-Books of the Presidency; for, after asserting, *but not attempting to prove*, that his declarations were consistent with his conduct, he writes in the said libel as follows: For "were it otherwise, they were not to be made the rules of my conduct; and God forbid that every expression dictated by the impulse of present emergency, and unpremeditatedly uttered in the heat of party contention, should impose upon me the obligation of a fixed principle, and be applied to every variable occasion!"

VIII. That the said Hastings, in order to draw the lawful dependence of the servants of the Company from the Court of Directors to a factious dependence on himself, did, in the libel aforesaid, treat the acts and appointments of their undoubted authority, when exercised in opposition to his arbitrary will, as ruinous to their affairs, in the following terms. "It is as well known to the Indian world as to the Court of English Proprietors, that the first declaratory instruments of the dissolution of my influence, in the year 1774, were Mr. John Bristow and Mr. Francis Fowke. By your ancient and known constitution the Governor

has been ever held forth and understood to possess the ostensible powers of government; all the correspondence with foreign princes is conducted in his name; and every person resident with them for the management of your political concerns is understood to be *more especially his* representative, and of *his* choice: and such ought to be the rule; for how otherwise can they trust an agent nominated against the will of *his* principal? When the state of this administration was such as seemed to *admit of* the appointment of Mr. Bristow to the Residency of Lucknow without *much* diminution of *my own* influence, I gladly seized the occasion to show my readiness to submit to your commands; I proposed his nomination; he was nominated, and declared to *be the agent of my own choice.* Even this effect of my caution *is defeated by your absolute command for his reappointment independent of me, and with the supposition that I should be adverse to it.* — I am now wholly deprived of my official powers, both in the province of Oude, and in the zemindary of Benares."

IX. That, further to emancipate others and himself from due obedience to the Court of Directors, he did, in the libel aforesaid, enhance his services, which, without specification or proof, he did suppose in the said libel to be important and valuable, by representing them as done under their displeasure, and doth attribute his not having done more to their opposition, as followeth. "It is now a complete period of eleven years since I first received the first nominal charge of your affairs; in the course of it I have *invariably* had to contend, not with ordinary difficulties, but such as most *unnaturally* arose *from the opposition of*

those very powers from which I primarily derived my authority, and which were required for the support of it. My exertions, though applied to an unvaried and consistent line of action, have been occasional and desultory; yet I please myself with the hope, that, in the annals of your dominion, which shall be written after the extinction of recent prejudices, this term of its administration will appear not the least conducive to the interests of the Company, nor the least reflective of the honor of the British name: and allow me to suggest the instructive reflection of *what good might have been done, and what evil prevented, had due support been given to that administration which has performed such eminent and substantial services without it.*"

And the said Hastings, further to render the authority of the said Court perfectly contemptible, doth, in a strain of exultation for his having escaped out of a measure in which by his guilt he had involved the Company in a ruinous war, and out of which it had escaped by a sacrifice of almost all the territories before acquired (from that enemy which he had made) either by war or former treaties, and by the abandoning the Company's allies to their mercy, attribute the said supposed services to his acting in such a manner as had on former occasions excited their displeasure, in the following words. "Pardon, Honorable Sirs, this digressive exultation. I cannot suppress the pride which I feel in this successful achievement of a measure so fortunate for your interests and the national honor; for that pride is the source of my zeal, so frequently exerted in your support, and never more happily than in those instances *in which I have departed from the prescribed and beaten path of action,*

and assumed a responsibility which has too frequently drawn on me the most pointed effects of your displeasure. But however I may yield to my private feelings in thus enlarging on the subject, my motive in introducing it was immediately connected with its context, and was to contrast *the actual state of your political affairs, derived from a happier influence, with that which might have attended an earlier dissolution of it*": and he did value himself upon "the *patience* and temper with which he had submitted to all the indignities which have been heaped upon him" (meaning, by the said Court of Directors) "in this long service"; and he did insolently attribute to an unusual strain of zeal for their service, that he "*persevered* in the VIOLENT MAINTENANCE OF HIS OFFICE."

X. That, in order further to excite the spirit of disobedience in the Company's servants to the lawful authority set over them, he, the said Warren Hastings, did treat contemptuously and ironically the supposed disposition of the Company's servants to obey the orders of the Court of Directors, in the words following. "The recall of Mr. Markham, who was known to be the public agent of my own nomination at Benares, and the reappointment of Mr. Francis Fowke by your order, contained in the same letter, would place it [the restoration of Cheyt Sing] beyond a doubt. *This order has been obeyed; and whenever you shall be pleased to order the restoration of Cheyt Sing, I will venture to promise the same ready and exact submission in the other members of the Council.*" And he did, in the postscript of the said letter, and as on recollection, endeavor to make a reparation of honor to his said colleagues, as if his expressions aforesaid

had arisen from animosity to them, as follows. "Upon a careful revisal of what I have written, I fear that an expression which I have used, respecting the probable conduct of the board in the event of orders being received for the restoration of Cheyt Sing, may be construed as intimating a sense of dissatisfaction applied to transactions already past. — It is not my intention to complain of any one."

XI. That the said Hastings, in the acts of injury aforesaid to the Rajah of Benares, did assume and arrogate to himself an illegal authority therein, and did maintain that the acts done in consequence of that measure were not revocable by any subsequent authority, in the following words. "If you should proceed to order the restoration of Cheyt Sing to the zemindary, from which, *by the powers which I legally possessed*, and conceive myself legally *bound to assert* against any *subsequent authority to the contrary* derived from *the same common source*, he was dispossessed for crimes of the greatest enormity, and your Council shall resolve to execute the order, I will instantly give up my station and the service."

XII. That the said Warren Hastings did attempt to justify his publication of the said libellous letter to and against the Court of Directors by asserting therein that these resolutions (meaning the resolutions of the Court of Directors relative to the Rajah of Benares) "were *either* published or *intended* for publication": evidently proving that he did take this unwarrantable course without any sufficient assurance that the ground and motive by him assigned had any existence.

XX. — MAHRATTA WAR AND PEACE.

I. THAT by an act passed in 1773 it was expressly ordered and provided, "that it should not be lawful for any President and Council of Madras, Bombay, or Bencoolen, for the time being, to make any orders for commencing hostilities, or declaring or making war, against any Indian princes or powers, or for negotiating or concluding any treaty of peace, or other treaty, with any such Indian princes or powers, without the consent and approbation of the Governor-General and Council first had and obtained, except in such cases of *imminent necessity* as would render it dangerous to postpone such hostilities or treaties until the orders from the Governor-General and Council might arrive." That, nevertheless, the President and Council of Bombay did, in December, 1774, without the consent and approbation of the Governor-General and Council of Fort William, and in the midst of profound peace, commence an unjust and unprovoked war against the Mahratta government, did conclude a treaty with a certain person, a fugitive from that government, and proscribed by it, named Ragonaut Row, or Ragoba, and did, under various base and treacherous pretences, invade and conquer the island of Salsette, belonging to the Mahratta government.

II. That Warren Hastings, on the first advices received in Bengal of the above transactions, did condemn the same in the strongest terms, — declaring that "the measures adopted by the Presidency of Bombay had a tendency to a very extensive and indefinite scene of troubles, and that their conduct was unseasonable, impolitic, unjust, and unauthorized."

And the Governor-General and Council, in order to put a stop to the said unjust hostilities, did appoint an ambassador to the Peshwa, or chief of the Mahratta state, resident at Poonah; and the said ambassador did, after a long negotiation, conclude a definitive treaty of peace with the said Peshwa on terms highly honorable and beneficial to the East India Company, who by the said treaty obtained from the Mahrattas a cession of considerable tracts of country, the Mahratta share of the city of Baroach, twelve lacs of rupees for the expenses of the said unjust war, and particularly the island of Salsette, of which the Presidency of Bombay had possessed themselves by surprise and treachery. That, in return for these extraordinary concessions, the articles principally insisted on by the Mahrattas, with a view to their own future tranquillity and internal quiet, were, that *no assistance should be given to any subject or servant of the Peshwa that should cause disturbances or rebellion in the Mahratta dominions*, and particularly that the English *should not assist Ragonaut Row*, to whom the Mahrattas agreed to allow five lacs of rupees a year, or a jaghire to that amount, and that he should reside at Benares. That, nevertheless, the Presidency of Bombay did receive and keep Ragonaut Row at Bombay, did furnish him with a considerable establishment, and continue to carry on secret intrigues and negotiations with him, thereby giving just ground of jealousy and distrust to the Mahratta state. That the late Colonel John Upton, by whom the treaty of Poorunder was negotiated and concluded, did declare to the Governor-General and Council, "that, while Ragonaut Row resides at Bombay in expectation of being supported, the ministers

can place no confidence in the Council there, which must now be productive of the greatest inconveniencies, and perhaps in the end of fatal consequences." That the said Warren Hastings, concurring with his Council, which then consisted of Sir John Clavering, Richard Barwell, and Philip Francis, Esquires, did, on the 18th of August, 1777, declare to the Presidency of Bombay, that "he could see no reason to doubt that the presence of Ragoba at Bombay would continue to be *an insuperable bar* to the completion of the treaty concluded with the Mahratta government; nor could any sincere cordiality and good understanding be established with them, as long as he should appear to derive encouragement and support from the English." That Sir John Clavering died soon after, and that the late Edward Wheler, Esquire, succeeded to a seat in the Supreme Council. That on the 29th of January, 1778, the Governor-General and Council received a letter from the Presidency of Bombay, dated 12th December, 1777, in which they declared, "that they had agreed to give encouragement to a *party* formed in Ragoba's favor, and flattered themselves they should meet with the hearty concurrence of the Governor-General and Council in the measures they might be obliged to pursue in consequence." That the *party* so described was said to consist of four principal persons in the Mahratta state, on whose part *some overtures* had been made to Mr. William Lewis, the Resident of Bombay at Poonah, *for the assistance of the Company to bring Ragoba to Poonah.* That the said Warren Hastings, immediately on the receipt of the preceding advices, did propose and carry it in Council, by means of his casting voice, and against the remonstrances, arguments, and sol-

emn protest of two members of the Supreme Council, that the *sanction* of that government should be given to the plan which the President and Council of Bombay had agreed to form with the Mahratta government; and also that a supply of money (to the amount of ten lacs of rupees) should be immediately granted to the President and Council of Bombay *for the support of their engagements above mentioned;* and also that a military force should be sent to the Presidency of Bombay. That in defence of these resolutions the said Warren Hastings did falsely pretend and affirm, "that the resolution of the Presidency of Bombay was formed on such a case of *imminent necessity* as would have rendered it dangerous to postpone the execution of it until the orders from the Governor-General and Council might arrive; and that the said Presidency of Bombay *were warranted by the treaty of Poorunder* to join in a plan for conducting Ragonaut Row to Poonah on the application of the ruling part of the Mahratta state": whereas the main object of the said treaty on the part of the Mahrattas, and to obtain which they made many important concessions to the India Company, was, that the English should withdraw their forces, and give no assistance to Ragoba, and that he should be excluded forever from any share in their government, being a person *universally held in abhorrence* in the Mahratta empire; and if it had been true (instead of being, as it was, notoriously false) that *the ruling part* of the administration of the Mahratta state solicited the return of Ragonaut Row to Poonah, his return in that case might have been effected by acts of their own, without the interposition of the English power, and without our interference in their affairs. That it was the

special duty of the said Warren Hastings, derived from a special trust reposed in him and power committed to him by Parliament, to have restrained, as by law he had authority to do, the subordinate Presidency of Bombay from entering into hostilities with the Mahrattas, or from making engagements the manifest tendency of which was to enter into those hostilities, and to have put a stop to them, if any such had been begun; that he was bound by the duty of his office to preserve the faith of the British government, pledged in the treaty of Poorunder, inviolate and sacred, as well as by the special orders and instructions of the East India Company *to fix his attention to the preservation of peace throughout India:* all which important duties the said Warren Hastings did wilfully violate, in giving the *sanction* of the Governor-General and Council to the dangerous, faithless, and ill-concerted projects of the President and Council of Bombay hereinbefore mentioned, from which the subsequent Mahratta war, with all the expense, distress, and disgraces which have attended it, took their commencement; and that the said Warren Hastings, therefore, is specially and principally answerable for the said war, and for all the consequences thereof. That in a letter dated the 20th of January, 1778, the President and Council of Bombay informed the Governor-General and Council, that, in consequence of later intelligence received from Poonah, they had *immediately resolved that nothing further could be done, unless Saccaram Baboo, the principal in the late treaty* (of Poorunder) *joined in making a formal application to them.* That no such application was ever made by that person. That the said Warren Hastings, finding that all this pretended ground for engaging in an in-

vasion of the Mahratta government had totally failed, did then pretend to give credit to, and to be greatly alarmed by, the suggestions of the President and Council of Bombay, that the Mahrattas were negotiating with the French, and had agreed to give them the port of Choul, on the Malabar coast, and did affirm that the French *had obtained possession of that port.* That all these suggestions and assertions were false, and, if they had been true, would have furnished no just occasion for attacking either the Mahrattas or the French, with both of whom the British nation was then at peace. That the said Warren Hastings did then propose and carry the following resolution in Council, against the protest of two members thereof, that, "for the purpose of granting you [the Presidency of Bombay] the most effectual support in our power, we have resolved to assemble a strong military force near Calpee, the commanding officer of which is to be ordered to march by the most practicable route to Bombay, or to such other place as future occurrences and your directions to him may render it expedient"; and with respect to the *steps* said to be taking *by the French to obtain a settlement on the Malabar coast*, the said Warren Hastings did declare to the Presidency of Bombay, "that it was the opinion of the Governor-General and Council that no time ought to be lost in forming and carrying into execution such measures as might most effectually tend to frustrate such dangerous designs." That the said Warren Hastings, therefore, instead of fixing his attention to the preservation of peace throughout India, as it was his duty to have done, did continue to abet, encourage, and support the dangerous projects of the Presidency of Bombay, and did thereby manifest a determined

intention to disturb the peace of India, by the unfortunate success of which intention, and by the continued efforts of the said Hastings, the greatest part of India has been for several years involved in a bloody and calamitous war. That both the Court of Directors and Court of Proprietors did specially instruct the said Warren Hastings, in all his measures, "to make the safety and prosperity of Bengal his principal object," and did heavily censure the said Warren Hastings for having employed their troops at a great distance from Bengal in a war against the Rohillas, which the House of Commons have pronounced to be *iniquitous*,* and did on that occasion expressly declare, "that they disapproved of all such distant expeditions as might eventually carry their forces to any situation too remote to admit of their speedy and safe return to the protection of their own provinces, in case of emergency." † That the said Warren Hastings nevertheless ordered a detachment from the Bengal army to cross the Jumna, and to proceed across the peninsula by a circuitous route through the diamond country of Bundelcund, and through the dominions of the Rajah of Berar, situated in the centre of Hindostan, and did thereby strip the provinces subject to the government of Fort William of a considerable part of their established defence, and did thereby disobey the general instructions and positive orders of the Court of Directors, (given upon occasion of a crime of the same nature committed by the said Hastings,) and was guilty of a high crime and misdemeanor.

That the said Warren Hastings, having taken the measures hereinbefore described for supporting those of the Presidency of Bombay, did, on the 23d of

* 28th May, 1782. † 15th Dec., 1775.

March, 1778, "invest the said Presidency with authority to form a new alliance with Ragoba, and to engage with him in *any* scheme which they should deem expedient and safe for retrieving his affairs." That the said Hastings was then in possession of a letter from the Court of Directors, dated the 4th of July, 1777, containing a positive order to the Presidency of Bombay in the following words. "Though that treaty" (meaning the treaty of Poorunder) "is not, upon the whole, so agreeable to us as we could wish, still we are resolved strictly to adhere to it on our parts. You must therefore be particularly vigilant, while Ragoba is with you, to prevent him from forming any plan against what is called the ministerial party at Poonah; and we hereby positively order you not to engage with him in any scheme whatever in retrieving his affairs, without the consent of the Governor-General and Council, or the Court of Directors." That the said Ragoba neither did or could form any plan for his restoration but what was and must be against the ministerial party at Poonah, who held and exercised the regency of that state in the infancy of the Peshwa; and that, supposing him to have formed any other *scheme*, in conjunction with Bombay, *for retrieving his affairs*, the said Hastings, in giving a previous *general* authority to the Presidency of Bombay to engage with Ragoba in *any* scheme for that purpose, without knowing what such scheme might be, and thereby relinquishing and transferring to the discretion of a subordinate government that superintendence and control over all measures tending to create or provoke a war which the law had exclusively vested in the Governor-General and Council, was guilty of a high crime and misdemeanor.

That the said Warren Hastings, having first declared that the measures taken by him were for the support of the engagements made by the Presidency of Bombay in favor of Ragoba, did afterwards, when it appeared that those negotiations were *entirely laid aside*, declare that his apprehension of the consequence of a pretended *intrigue* between the Mahrattas and the French *was the sole motive of all the late measures taken for the support of the Presidency of Bombay;* but that neither of the preceding declarations contained the true motives and objects of the said Hastings, whose real purpose, as it appeared soon after, was, to make use of the superiority of the British power in India to carry on offensive wars, and to pursue schemes of conquest, impolitic and unjust in their design, ill-concerted in the execution, and which, as this House has resolved, *have brought great calamities on India, and enormous expenses on the East India Company.*

That the said Warren Hastings, on the 22d of June, 1778, made the following declaration in Council. "Much less can I agree, that, with such superior advantages as we possess over every power which can oppose us, we should act *merely on the defensive.* On the contrary, if it be really true that the British arms and influence have suffered so severe a check in the Western world, it is more incumbent on those who are charged with the interests of Great Britain in the East *to exert themselves for the retrieval of the national loss.* We have the means in our power, and, if they are not frustrated by our own dissensions, I trust that the event of this expedition will yield every advantage *for the attainment of which it was undertaken.*" That, in pursuance of the principles avowed in the preceding declaration, the said Warren Hastings, on the 9th

of July, 1778, did propose and carry it in Council, that an embassy should be sent from Bengal to Moodajee Boosla, the Rajah of Berar, — falsely asserting that the said Rajah "was, by interest and inclination, likely to join in an alliance with the British government, and suggesting that two advantages might be offered to him as the inducements to it: first, the support of his pretensions to the sovereign power" (viz., of the Mahratta empire); "second, the recovery of the captures made on his dominions by Nizam Ali." That the said Hastings, having already given full authority to the Presidency of Bombay to engage the British faith to Ragonaut Row to support him in *his* pretensions to the government or to the regency of the Mahratta empire, was guilty of a high crime and misdemeanor in proposing to engage the same British faith to support the pretensions of another competitor for the same object; and that, in offering to assist the Rajah of Berar to recover the captures made on his dominions by the Nizam, the said Hastings did endeavor, as far as depended on him, to engage the British nation in a most unjust and utterly unprovoked war against the said Nizam, between whom and the East India Company a treaty of peace and friendship did then subsist, unviolated on his part, — notwithstanding the said Hastings well knew that it made part of the East India Company's fundamental policy to support that prince against the Mahrattas, and *to consider him as one of the few remaining chiefs who were yet capable of coping with the Mahrattas*, and that it was the Company's *true interest to preserve a good understanding with him.* That, by holding out such offers to the Rajah of Berar, the said Hastings professed to hope that the Rajah *would ar-*

dently catch at the objects presented to his ambition; and although the said Hastings did about this time lay it down as a maxim that *there is always a greater advantage in receiving solicitations than in making advances,* he nevertheless declared to the said Rajah that *in the whole of his conduct he had departed from the common line of policy, and had made advances where others in his situation would have waited for solicitation.* That the said unjust and dangerous projects did not take effect, because the Rajah of Berar refused to join or be concerned therein; yet so earnest was the said Hastings for the execution of those projects, that in a subsequent letter he daringly and treacherously assured the Rajah, "that, if he had accepted of the terms offered him by Colonel Goddard, and concluded a treaty with the government of Bengal upon them, he should have held the obligation of it superior to that of any engagement formed by the government of Bombay, and should have thought it his duty to maintain it, &c., against every consideration *even of the most valuable interests and safety of the English possessions intrusted to his charge.*" That all the offers of the said Hastings were rejected with slight and contempt by the Rajah of Berar; but the same being discovered, and generally known throughout India, did fill the chief of the princes and states of India with a general suspicion and distrust of the ambitious designs and treacherous principles of the British government, and with an universal hatred of the British nation. That the said princes and states were thereby so thoroughly convinced of the necessity of uniting amongst themselves to oppose a power which kept no faith with any of them, and equally threatened them all, that, renouncing all former enmities against each

other, they united in a common confederacy against the English, viz.: the Peshwa, as representative of the Mahratta state, and Moodajee Boosla, the Rajah of Berar, that is, the principal Hindoo powers of India, on one side; and Hyder Ali, and the Nizam of the Deccan, that is, the principal Mahomedan powers of India, on the other: and that in consequence of this confederacy Hyder Ali invaded, overran, and ruined the Carnatic; and that Moodajee Boosla, instead of *ardently catching at the objects presented to his ambition* by the said Hastings, sent an army to the frontiers of Bengal, — which army the said Warren Hastings was at length forced to buy off with twenty-six lacs of rupees, or 300,000*l.* sterling, after a series of negotiations with the Mahratta chiefs who commanded that army, founded and conducted on principles so dishonorable to the British name and character, that the Secret Committee of the House of Commons, by whom the rest of the proceedings in that business were reported to the House, *have upon due consideration thought it proper to leave out the letter of instructions to Mr. Anderson*, viz., those given by the said Warren Hastings to the representative of the British government, and concerning which the said committee have reported in the following terms: "The schemes of policy by which the Governor-General seems to have dictated the instructions he gave to Mr. Anderson" (the gentleman deputed) "will also appear in this document, as well respecting the particular succession to the *rauje*, as also the mode of accommodating the demand of *chout*, the establishment of which was apparently the great aim of Moodajee's political manœuvres, while the Governor-General's wish to defeat it was avowedly more intent on the removal of a

nominal disgrace than on the anxiety or resolution to be freed from an expensive, if an unavoidable incumbrance."

That, while the said Warren Hastings was endeavoring to persuade the Rajah of Berar to engage with him in a scheme to place the said Rajah at the head of the Mahratta empire, the Presidency of Bombay, by virtue of the powers specially vested in them for that purpose by the said Hastings, did really engage with Ragonaut Row, the other competitor for the same object, and sent a great part of their military force, established for the defence of Bombay, on an expedition with Ragonaut Row, to invade the dominions of the Peshwa, and to take Poonah, the capital thereof; that this army, being surrounded and overpowered by the Mahrattas, was obliged to capitulate; and then, through the moderation of the Mahrattas, was permitted to return quietly, but *very disgracefully*, to Bombay. That, supposing the said Warren Hastings could have been justified in abandoning the project of reinstating Ragonaut Row, which he at first authorized and promised to support, and in preferring a scheme to place the Rajah of Berar at the head of the Mahratta empire, he was bound by his duty, as well as in justice to the Presidency of Bombay, to give that Presidency timely notice of such his intention, and to have restrained them positively from resuming their own project; that, on the contrary, the said Warren Hastings did, on the 17th of August, 1778, again *authorize* the said Presidency "to assist Ragoba with a military force to conduct him to Poonah, and to establish him in the regency there," and, so far from communicating his change of plan to Bombay, did keep it concealed from that Presidency, insomuch

that, even so late as the 19th of February, 1779, William Hornby, then Governor of Bombay, declared in Council his total ignorance of the schemes of the said Hastings in the following terms: "The schemes of the Governor-General and Council with regard to the Rajah of Berar *being yet unknown to us*, it is impossible for us to found any measures on them; yet I cannot help now observing, that, if, as has been conjectured, the gentlemen of that Presidency have entertained thoughts of restoring, in his person, the ancient Rajah government, the attempt seems likely to be attended with no small difficulty." That, whereas the said Warren Hastings did repeatedly affirm that it was his intention to support the plan formed by the Presidency of Bombay in favor of Ragoba, and did repeatedly authorize and encourage them to pursue it, he did nevertheless, at the same time, in his letters and declarations to the Peshwa, to the Nizam, and to the Rajah of Berar, falsely and perfidiously affirm, *that it never was nor is designed by the English chiefs to give support to Ragonaut Row,— that he* (Hastings) *had no idea of supporting Ragonaut Row,— and that the detachment he had sent to Bombay was solely to awe the French, without the least design to assist Ragonaut Row.* That, supposing it to have been the sole *professed* intention of the said Hastings, in sending an army across India, to protect Bombay against a French invasion, even that pretence was false, and used only to cover the real design of the said Hastings, viz., to engage in projects of war and conquest with the Rajah of Berar. That on the 11th of October, 1778, he informed the said Rajah "that the detachment would soon arrive in his territories, and depend on him [Moodajee Boosla] for its subse-

quent operations"; that on the 7th of December, 1778, the said Hastings revoked the powers he had before given* to the Presidency of Bombay over the detachment, declaring that the event of Colonel Goddard's negotiation with the Rajah of Berar *was likely to cause a very speedy and essential change in the design and operations of the detachment;* and that on the 4th of March, 1779, the said Hastings, immediately after receiving advice of the defeat of the Bombay army near Poonah, and when Bombay, if at any time, particularly required to be protected against a French invasion, did declare in Council that he *wished for the return of the detachment to Berar, and dreaded to hear of its proceeding to the Malabar coast:* and therefore, if the said Hastings did not think that Bombay was in danger of being attacked by the French, he was guilty of repeated falsehoods in affirming the contrary for the purpose of covering a criminal design; or, if he thought that Bombay was immediately threatened with that danger, he then was guilty of treachery in ordering an army necessary on that supposition to the immediate defence of Bombay to halt in Berar, to depend on the Rajah of Berar for its subsequent operations, or on *the event of a negotiation* with that prince, which, as the said Hastings declared, *was likely to cause a very speedy and essential change in the design and operations of the detachment;* and finally, in declaring that *he dreaded to hear of the said detachment's proceeding to the Malabar coast*, whither he ought to have ordered it to proceed without delay, if, as he has solemnly affirmed, it was true that *he had been told by the highest authority that a powerful armament had been prepared in France, the first object*

* On the 15th of November.

of which was an attack upon Bombay, and that he knew with moral certainty that all the powers of the adjacent continent were ready to join the invasion.

That through the whole of these transactions the said Warren Hastings has been guilty of continued falsehood, fraud, contradiction, and duplicity, highly dishonorable to the character of the British nation; that, in consequence of the unjust and ill-concerted schemes of the said Hastings, the British arms, heretofore respected in India, have suffered repeated disgraces, and great calamities have been thereby brought upon India; and that the said Warren Hastings, as well in exciting and promoting the late unprovoked and unjustifiable war against the Mahrattas, as in the conduct thereof, has been guilty of sundry high crimes and misdemeanors.

That, by the definitive treaty of peace concluded with the Mahrattas at Poorunder, on the 1st of March, 1776, the Mahrattas gave up all right and title to the island of Salsette, unjustly taken from them by the Presidency of Bombay; did also give up to the English Company forever all right and title to their entire shares of the city and purgunnah of Baroach; did also give forever to the English Company a country of three lacs of rupees revenue, near to Baroach; and did also agree to pay to the Company twelve lacs of rupees, in part of the expenses of the English army: and that the terms of the said treaty *were honorable and advantageous to the India Company.**

That Warren Hastings, having broken the said treaty, and forced the Mahrattas into another war by a repeated invasion of their country, and having conducted that war in the manner hereinbefore described,

* Resolution of the House of Commons, 28th May, 1782.

did, on the 17th of May, 1782, by the agency of Mr. David Anderson, conclude another treaty of perpetual friendship and alliance with the Mahrattas, by which the said Hastings agreed to deliver up to them all the countries, places, cities, and forts, particularly the island of Bassein, (taken from the Peshwa during the war,) and to relinquish all claim to the country of three lacs of rupees ceded to the Company by the treaty of Poorunder; that the said Warren Hastings did also at the said time, by a private and separate agreement, deliver up to Mahdajee Sindia the whole of the city of Baroach, — that is, not only the share in the said city which the India Company acquired by the treaty of Poorunder, but the other share thereof which the India Company possessed for several years before that treaty; and that among the reasons assigned by Mr. David Anderson for totally stripping the Presidency of Bombay of all their possessions on the Malabar coast, he has declared, "that, from the general tenor of the *rest* of the treaty, the settlement of Bombay would be in future put on such a footing that it might well become a question whether the possession of an inconsiderable territory without forts would not be attended with more loss than advantage, as it must necessarily occasion considerable expense, must require troops for its defence, and might probably in the end lead, as Sindia apprehended, to a renewal of war."

That the said Warren Hastings, having in this manner put an end to a war commenced by him without provocation, and continued by him without necessity, and having for that purpose made so many sacrifices to the Mahrattas in points of essential interest to the India Company, did consent and agree to

other articles utterly dishonorable to the British name and character, having sacrificed or abandoned every one of the native princes who by *his* solicitations and promises had been engaged to take part with us in the war, — and that he did so without necessity: since it appears that Sindia, the Mahratta chief who concluded the treaty, *in every part of his conduct manifested a hearty desire of establishing a peace* with us; and that this was the disposition of all the parties in the Mahratta confederacy, who were only kept together by a general dread of their common enemy, the English, and who only waited for a cessation of hostilities with us to return to their habitual and permanent enmity against each other. That the Governor-General and Council, in their letter of 31st August, 1781, made the following declaration to the Court of Directors. "The Mahrattas have demanded the sacrifice of the person of Ragonaut Row, the surrender of the fort and territories of Ahmedabad, and of the fortress of Gualior, *which are not ours to give, and which we could not wrest from the proprietors without the greatest violation of public faith.* No state of affairs, in our opinions, could warrant our acquiescence to such requisition; and we are morally certain, that, had we yielded to them, such a consciousness of the state of our affairs would have been implied as would have produced an effect the very reverse from that for which it was intended, by raising the presumption of the enemy to exact yet more *ignominious* terms, or perhaps their refusal to accept of any; nor, in our opinion, would they have failed to excite in others the same belief, and the consequent decision of all parties against us, as the natural consequences of our decline." That the said Hastings himself, in his instructions to Mr.

David Anderson, after authorizing him to restore *all* that we had conquered during the war, expressly "*excepted* Ahmedabad, and the territory conquered for Futty Sing Gwicowar." That, nevertheless, the said Hastings, in the peace concluded by him, has yielded to every one of the conditions reprobated in the preceding declarations as *ignominious* and incompatible with public faith.

That the said Warren Hastings did abandon the Ranna of Gohud in the manner already charged; and that the said Ranna has not only lost the fort of Gualior, but all his own country, and is himself a prisoner. That the said Hastings did not interpose to obtain any terms in favor of the Nabob of Bopaul, who was *with great reason desirous of concealing from the Mahrattas the attachment he had borne to the English government:** the said Nabob having a just dread of the danger of being exposed to the resentment of the Mahrattas, and no dependence on the faith and protection of the English. That by the ninth article of the treaty with Futty Sing it was stipulated, that, when a negotiation for peace should take place, his interest should be primarily considered; and that Mr. David Anderson, the minister and representative of the Governor-General and Council, did declare to Sindia, that it was indispensably incumbent on us to support Futty Sing's rights: that, nevertheless, every acquisition made for or by the said Futty Sing during the war, particularly *the fort and territories of Ahmedabad*, were given up by the said Hastings; that Futty Sing was replaced under the subjection of the Peshwa, (whose resentment he had provoked by taking part with us in the war,) and under an obligation

* Anderson's letter of 26th January, 1782.

to pay a tribute, not specified, to the Peshwa, and to perform such services and to be subject to such obedience *as had long been established and customary;* and that, no limit being fixed to such tribute or services, the said Futty Sing has been left wholly at the mercy of the Mahrattas.

That, with respect to Ragoba, the said Hastings, in his instructions to Mr. Anderson, dated 4th of November, 1781, contented himself with saying, "We cannot *totally* abandon the interests of Ragonaut Row. Endeavor to obtain for him an adequate provision." That Mr. Anderson declared to Mahdajee Sindia,* "that, as we had given Ragoba protection as an independent prince, and not brought him into our settlement as a prisoner, we could not *in honor* pretend to impose the *smallest* restraint on his will, and he must be at liberty to go wherever he pleased; that it must rest with Sindia himself to prevail on him to reside in his country: all that we could do was to *agree*, after a reasonable time, *to withdraw our protection from him, and not to insist on the payment of the stipend to him*, as Sindia had proposed, unless on the condition of his residing in some part of Sindia's territories."

That, notwithstanding all the preceding declarations, and in violation of the public faith repeatedly pledged to Ragoba, he was totally abandoned by the said Hastings in the treaty, no provision whatever being made even for his subsistence, but on a condition to which he could not submit without the certain loss of his liberty and probable hazard of his life, namely, *that he should voluntarily and of his own accord repair to Sindia, and quietly reside with*

* Anderson's letter of 24th February, 1782.

him. That such treacherous desertion of the said Ragoba is not capable of being justified by any plea of necessity: but that in fact no such necessity existed; since it appears that the Nizam, who of all the contracting parties in the confederacy was personally most hostile to Ragoba, did himself *propose that Ragoba might have an option given him* of residing within the Company's territories.

That the plan of negotiating a peace with the Mahrattas by application to Sindia, and through his mediation, was earnestly recommended to the said Hastings by the Presidency of Bombay so early as in February, 1779, who stated clearly to him the reasons why such application ought to be made to Sindia in preference to any other of the Mahratta chiefs, and why it would probably be successful; the truth and justice of which reasons were fully evinced in the issue, when the said Hastings, after incurring, by two years' delay, all the losses and distresses of a calamitous war, did actually pursue that very plan with much less effect or advantage than might have been obtained at the time the advice was given. That he neglected the advice of the Presidency of Bombay, and retarded the peace, as well as made its conditions worse, from an obstinate attachment to his project of an alliance offensive and defensive with the Rajah of Berar, the object of which was rather a new war than a termination of the war then existing against the Peshwa.

That the said Hastings did further embarrass and retard the conclusion of a peace by employing different ministers at the courts of the several confederate powers, whom he severally empowered to

treat and negotiate a peace. That these ministers, not acting in concert, not knowing the extent of each other's commissions, and having no instructions to communicate their respective proceedings to each other, did in effect counteract their several negotiations. That this want of concert and of simplicity, and the mystery and intricacy in the mode of conducting the negotiation on our part, was complained of by our ministers as embarrassing and disconcerting to us, while it was advantageous to the adverse party, who were thereby furnished with opportunity and pretence for delay, when it suited their purpose, and enabled to play off one set of negotiators against another; that it also created jealousy and distrust in the various contending parties, with whom we were treating at the same time, and to whom we were obliged to make contradictory professions, while it betrayed and exposed to them all our own eagerness and impatience for peace, raising thereby the general claims and pretensions of the enemy. That, while Dalhousie Watherston, Esquire, was treating at Poonah, and David Anderson, Esquire, in Sindia's camp, with separate powers applied to the same object, the minister at Poonah informed the said Watherston, that he had received proposals for peace from the Nabob of Arcot with the approbation of Sir Eyre Coote; that he had returned other proposals to the said Nabob of Arcot, who had assured him, the minister, that those proposals *would be acceded to, and that Mr. Macpherson would set out for Bengal, after which orders should be immediately dispatched from the Honorable the Governor-General and Council to the effect he wished;* that the said Nabob "had prom-

ised to obtain and forward to him the expected *orders from Bengal in fifteen days*, and that he was therefore every instant in expectation of their arrival, — and observed, that, when General Goddard proposed to send a confidential person to Poonah, he conceived that those orders must have actually reached him": that therefore the treaty formally concluded by David Anderson was in effect and substance the same with that offered and in reality concluded by the Nabob of Arcot, with the exception only of Salsette, which the Nabob of Arcot had agreed to restore to the Mahrattas.

That the intention of the said Warren Hastings, in pressing for a peace with the Mahrattas on terms so dishonorable and by measures so rash and ill-concerted, was not to restore and establish a general peace throughout India, but to engage the India Company in a new war against Hyder Ali, and to make the Mahrattas parties therein. That the eagerness and passion with which the said Hastings pursued this object laid him open to the Mahrattas, who depended thereon for obtaining whatever they should demand from us. That, in order to carry the point of an offensive alliance against Hyder Ali, the said Hastings exposed the negotiation for peace with the Mahrattas to many difficulties and delays. That the Mahrattas were bound by a clear and recent engagement, which Hyder had never violated in any article, to make no peace with us which should not include him; that they pleaded the sacred nature of this obligation in answer to all our requisitions on this head, while the said Hastings, still importunate for his favorite point, suggested to them various means of reconciling a substantial

breach of their engagement with a formal observance of it, and taught them how they might at once be parties in a peace with Hyder Ali and in an offensive alliance for immediate hostility against him. That these lessons of public duplicity and artifice, and these devices of ostensible faith and real treachery, could have no effect but to degrade the national character, and to inspire the Mahrattas themselves, with whom we were in treaty, with a distrust in our sincerity and good faith. That the object of this fraudulent policy (viz., the utter destruction of Hyder Ali, and a partition of his dominions) was neither wise in itself, or authorized by the orders and instructions of the Company to their servants; that it was incompatible with the treaty of peace, in which Hyder Ali was included, and contrary to the repeated and best-understood injunctions of the Company, — being, in the first place, a bargain for a new war, and, in the next, aiming at an extension of our territory by conquest. That the best and soundest political opinions on the relations of these states have always represented our great security against the power of the Mahrattas to depend on its being balanced by that of Hyder Ali; and the Mysore country is so placed as a barrier between the Carnatic and the Mahrattas as to make it our interest rather to strengthen and repair that barrier than to level and destroy it. That the said treaty of partition does express itself to be *eventual* with regard to the making and keeping of peace; but through the whole course of the said Hastings's proceeding he did endeavor to prevent any peace with the Sultan or Nabob of Mysore, Tippoo Sahib, and did for a long time endeavor to frustrate all the

methods which could have rendered the said treaty of conquest and partition wholly unnecessary.

That the Mahrattas having taken no effectual step to oblige Hyder Ali to make good the conditions for which they had engaged in his behalf, and the war continuing to be carried on in the Carnatic by Tippoo Sultan, son and successor of Hyder Ali, the Presidency of Fort St. George undertook, upon their own authority, to open a negotiation with the said Tippoo: which measure, though indispensably necessary, the said Hastings utterly disapproved and discountenanced, expressly denying that there was any ground or motive for entering into any direct or separate treaty with Tippoo, and not consenting to or authorizing any negotiation for such treaty, until after a cessation of hostilities had been brought about with him by the Presidency of Fort St. George, in August, 1783, and the ministers of Tippoo had been received and treated with by that Presidency, and commissioners, in return, actually sent by the said Presidency to the court of Poonah: which late and reluctant consent and authority were extorted from him, the said Hastings, in consequence of the acknowledgment of his agent at the court of Mahdajee Sindia, upon whom the said Warren Hastings had depended for enforcing the clauses of the Mahratta treaty, of the precariousness of such dependence, and of the necessity of that direct and separate treaty with Tippoo, so long and so lately reprobated by the said Warren Hastings, notwithstanding the information and entreaties of the Presidency of Fort St. George, as well as the known distresses and critical situation of the Company's affairs. That, though the said Warren Hastings did at length give instructions for negotiating and making

peace with Tippoo, expressly adding, that those instructions extended to *all* the points which occurred to *him or them* as capable of being agitated or gained upon the occasion, — though the said instructions were sent after the said commissioners by the Presidency of Fort St. George, with directions to obey them, — though not only the said instructions were obeyed, but advantages gained which did not occur to the said Warren Hastings, — though the said peace formed a contrast with the Mahratta peace, in neither ceding any territory possessed by the Company before the war, or delivering up any dependant or ally to the vengeance of his adversaries, but providing for the restoration of all the countries that had been taken from the Company and their allies, — though the Supreme Council of Calcutta, forming the legal government of Bengal in the absence of the said Warren Hastings, ratified the said treaty, — yet the said Warren Hastings, then absent from the seat of government, and out of the province of Bengal, and forming no legal or integral part of the government during such absence, did, after such ratification, usurp the power of acting as a part of such government (as if actually sitting in Council with the other members of the same) in the consideration and unqualified censure of the terms of the said peace.

That the Nabob of Arcot, with whom the said Hastings did keep up an unwarrantable clandestine correspondence, without any communication with the Presidency of Madras, wrote a letter of complaint, dated the 27th of March, 1784, against the Presidency of that place, without any communication thereof to the said Presidency, the said complaint being addressed to the said Warren Hastings, the

substance of which complaint was, that he, the Nabob, had not been made a party to the late treaty; and although his interest had been sufficiently provided for in the said treaty, the said Warren Hastings did sign a declaration, on the 23d of May, at Lucknow, forming the basis of a new article, and making a new party to the treaty, after it had been by all parties (the Supreme Council of Calcutta included) completed and ratified, and did transmit the said new stipulation to the Presidency at Calcutta, solely for the purposes and at the instigation of the Nabob of Arcot; and the said declaration was made without any previous communication with the Presidency aforesaid, and in consequence thereof orders were sent by the Council at Calcutta to the Presidency of Fort St. George, *under the severest threats in case of disobedience:* which orders, whatever were their purport, would, as an undue assumption of and participation in the government, from which he was absent, become a high misdemeanor; but, being to the purport of opening the said treaty after its solemn ratification, and proposing a new clause and a new party to the same, was also an aggravation of such misdemeanor, as it tended to convey to the Indian powers an idea of the unsteadiness of the councils and determinations of the British government, and to take away all reliance on its engagements, and as, above all, it exposed the affairs of the nation and the Company to the hazard of seeing renewed all the calamities of war, from whence by the conclusion of the treaty they had emerged, and upon a pretence so weak as that of proposing the Nabob of Arcot to be a party to the same, — though he had not been made a party by the said Warren Hast-

ings in the Mahratta treaty, which professed to be for the relief of the Carnatic, — though he was not a party to the former treaty with Hyder, also relative to the Carnatic, — though it was not certain, if the treaty were once opened, and that even Tippoo should then consent to that Nabob's being a party, whether he, the said Nabob, would agree to the clauses of the same, and consequently whether the said treaty, once opened, could afterwards be concluded: an uncertainty of which he, the said Hastings, should have learned to be aware, having already once been disappointed by the said Nabob's refusing to accede to a treaty which he, the said Warren Hastings, made for him with the Dutch, about a year before.

That the said Warren Hastings, — having broken a solemn and honorable treaty of peace by an unjust and unprovoked war, — having neglected to conclude that war when he might have done it without loss of honor to the nation, — having plotted and contrived, as far as depended on him, to engage the India Company in another war as soon as the former should be concluded, — and having at last put an end to a most unjust war against the Mahrattas by a most ignominious peace with them, in which he sacrificed objects essential to the interests, and submitted to conditions utterly incompatible with the honor of this nation, and with his own declared sense of the dishonorable nature of those conditions, — and having endeavored to open anew the treaty concluded with Tippoo Sultan through the means of the Presidency of Fort St. George, upon principles of justice and honor, and which established peace in India, and thereby exposing the British possessions there to the renewal of the dangers and calamities of war, — has by these

several acts been guilty of sundry high crimes and misdemeanors.

XXI. — CORRESPONDENCE.

THAT, by an act of the 13th year of his present Majesty, intituled, "An act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe," "the Governor-General and Council are required and directed to pay due obedience to all such orders as they shall receive from the Court of Directors of the said United Company, and to correspond from time to time, and constantly and diligently transmit to the said Court an exact particular of all advices or intelligence and of all transactions and matters whatsoever that shall come to their knowledge, relating to the government, commerce, revenues, or interest of the said United Company."

That, in consequence of the above-recited act, the Court of Directors, in their general instructions of the 29th March, 1774, to the Governor-General and Council, did direct, "that the correspondence with the princes or country powers in India should be carried on through the Governor-General only; but that all letters to be sent by him should be first approved in Council; and that he should lay before the Council, at their next meeting, all letters received by him in the course of such correspondence, for their information."

And the Governor-General and Council were therein further ordered, "that, in transacting the business of their department, they should enter with the utmost perspicuity and exactness all their proceedings

whatsoever, and all dissents, if such should at any time be made by any member of their board, together with all letters sent or received in the course of their correspondence; and that broken sets of such proceedings, to the latest period possible, be transmitted to them [the Court of Directors], a complete set at the end of every year, and a duplicate by the next conveyance."

That, in defiance of the said orders, and in breach of the above-recited act of Parliament, the said Warren Hastings has, in sundry instances, concealed from his Council the correspondence carried on between him and the princes or country powers in India, and neglected to communicate the advices and intelligence he from time to time received from the British Residents at the different courts in India to the other members of the government, and, without their knowledge, counsel, or participation, has dispatched orders on matters of the utmost consequence to the interests of the Company.

That, moreover, the said Warren Hastings, for the purpose of covering his own improper and dangerous practices from his employers, has withheld from the Court of Directors, upon sundry occasions, copies of the proceedings had, and the correspondence carried on by him in his official capacity as Governor-General, whereby the Court of Directors have been kept in ignorance of matters which it highly imported them to know, and the affairs of the Company have been exposed to much inconvenience and injury.

That, in all such concealments and acts done or ordered without the consent and authority of the Supreme Council, the said Warren Hastings has been guilty of high crimes and misdemeanors.

XXII.—FYZOOLA KHÂN.

PART I.

RIGHTS OF FYZOOLA KHÂN, ETC., BEFORE THE TREATY OF LALL-DANG.

I. THAT the Nabob Fyzoola Khân, who now holds of the Vizier the territory of Rampoor, Shahabad, and certain other districts dependent thereon, in the country of the Rohillas, is the second son of a prince renowned in the history of Hindostan under the name of Ali Mohammed Khân, some time sovereign of all that part of Rohilcund which is particularly distinguished by the appellation of the Kutteehr.

II. That, after the death of Ali Mohammed aforesaid, as Fyzoola Khân, together with his elder brother, was then a prisoner of war at a place called Herat, "the Rohilla chiefs took possession of the ancient estates" of the captive princes; and the Nabob Fyzoola Khân was from necessity compelled to waive his hereditary rights for the inconsiderable districts of Rampoor and Shahabad, then estimated to produce from six to eight lacs of annual revenue.

III. That in 1774, on the invasion of Rohilcund by the united armies of the Vizier Sujah ul Dowlah and the Company, the Nabob Fyzoola Khân, "with some of his people, was present at the decisive battle of St. George," where Hafiz Rhamet, the great leader of the Rohillas, and many others of their principal chiefs were slain; but, escaping from the slaughter, Fyzoola Khân "made his retreat good towards the mountains, with all his treasure." He there collected the scat-

tered remains of his countrymen; and as he was the eldest surviving son of Ali Mohammed Khân, as, too, the most powerful obstacle to his pretensions was now removed by the death of Hafiz, he seems at length to have been generally acknowledged by his natural subjects the undoubted heir of his father's authority.

IV. That, "regarding the sacred *sincerity* and friendship of the English, whose *goodness* and celebrity is everywhere known, *who dispossess no one*," the Nabob Fyzoola Khân made early overtures for peace to Colonel Alexander Champion, commander-in-chief of the Company's forces in Bengal: that he did propose to the said Colonel Alexander Champion, in three letters, received on the 14th, 24th, and 27th of May, to put himself under the protection either of the Company, or of the Vizier, through the mediation and with the guaranty of the Company; and that he did offer, "whatever was conferred upon him, to pay as much without damage or deficiency as any other person would agree to do": stating, at the same time, his condition and pretensions hereinbefore recited as facts "evident as the sun"; and appealing, in a forcible and awful manner, to the generosity and magnanimity of this nation, "by whose means he hoped in God that he should receive justice"; and as "the person who designed the war was no more," as "in that he was himself guiltless," and as "he had never acted in such a manner as for the Vizier to have taken hatred to his heart against him, that he might be reinstated in his ancient possessions, the country of his father."

V. That on the last of the three dates above men-

tioned, that is to say, on the 27th of May, the Nabob Fyzoola Khân did also send to the commander-in-chief a *vakeel*, or ambassador, who was authorized on the part of him, the Nabob Fyzoola Khân, his master, to make a specific offer of three propositions; and that by one of the said propositions "an annual increase of near 400,000*l.* would have accrued to the revenues of our ally, and the immediate acquisition of above 300,000*l.* to the Company, for their influence in effecting an accommodation perfectly consistent with their engagements to the Vizier," and strictly consonant to the demands of justice.

VI. That, so great was the confidence of the Nabob Fyzoola Khân in the just, humane, and liberal feelings of Englishmen, as to "lull him into an inactivity" of the most essential detriment to his interests: since, "in the hopes which he entertained from the interposition of our government," he declined the invitation of the Mogul to join the arms of his Majesty and the Mahrattas, "refused any connection with the Seiks," and did even neglect to take the obvious precaution of crossing the Ganges, as he had originally intended, while the river was yet fordable, — a movement that would have enabled him certainly to baffle all pursuit, and probably "to keep the Vizier in a state of disquietude for the remainder of his life."

VII. That the commander-in-chief, Colonel Alexander Champion aforesaid, "thought nothing could be more honorable to this nation than the support of so exalted a character; and whilst it could be

done on terms so advantageous, supposed it very unlikely that the vakeel's proposition should be received with indifference"; that he did accordingly refer it to the administration through Warren Hastings, Esquire, then Governor of Fort William and President of Bengal; and he did at the same time inclose to the said Warren Hastings a letter from the Nabob Fyzoola Khân to the said Hastings, — which letter does not appear, but must be supposed to have been of the same tenor with those before cited to the commander-in-chief, — of which also copies were sent to the said Hastings by the commander-in-chief; and he, the commander-in-chief aforesaid, after urging to the said Hastings sundry good and cogent arguments of policy and prudence in favor of the Nabob Fyzoola Khân, did conclude by "wishing for nothing so much as for the adoption of some measure that might strike all the powers of the East with admiration of our justice, in contrast to the conduct of the Vizier."

VIII. That, in answer to such laudable wish of the said commander-in-chief, the President, Warren Hastings, preferring his own prohibited plans of extended dominion to the mild, equitable, and wise policy inculcated in the standing orders of his superiors, and now enforced by the recommendation of the commander-in-chief, did instruct and "desire" him, the said commander-in-chief, "instead of soliciting the Vizier to relinquish his conquest to Fyzoola Khân, to discourage it as much as was in his power"; although the said Hastings did not once express, or even intimate, any doubt whatever of the Nabob Fyzoola Khân's innocence as to the

origin of the war, or of his hereditary right to the territories which he claimed, but to the said pleas of the Nabob Fyzoola Khân, as well as to the arguments both of policy and justice advanced by the commander-in-chief, he, the said Hastings, did solely oppose certain speculative objects of imagined expediency, summing up his decided rejection of the proposals made by the Nabob Fyzoola Khân in the following remarkable words. "With respect to Fyzoola Khân, *he appears not to merit our consideration. The petty sovereign of a country estimated at six or eight lacs ought not for a moment to prove an impediment to any of our measures, or to affect the consistency of our conduct.*"

IX. That, in the aforesaid violent and arbitrary position, the said Warren Hastings did avow it to be a public principle of his government, that no right, however manifest, and no innocence, however unimpeached, could entitle the weak to our protection against others, or save them from our own active endeavors for their oppression, and even extirpation, should they interfere with our notions of political expediency; and that such a principle is highly derogatory to the justice and honor of the English name, and fundamentally injurious to our interests, inasmuch as it hath an immediate tendency to excite distrust, jealousy, fear, and hatred against us among all the subordinate potentates of Hindostan.

X. That, in prosecution of the said despotic principle, the President, Warren Hastings aforesaid, did persist to obstruct, as far as in him lay, every

advance towards an accommodation between the Vizier Sujah ul Dowlah and the Nabob Fyzoola Khân; and particularly on the 16th of September, only eight days after the said Hastings, in conjunction with the other members of the Select Committee of Bengal, had publicly testified his *satisfaction* in the prospect of *an accommodation*, and had *hoped* that "his Excellency [the Vizier] would be disposed to conciliate the affections [of the Rohillas] to his government *by acceding to lenient terms*," he, the said Hastings, did nevertheless write, and without the consent or knowledge of his colleagues did privately dispatch, a certain answer to a letter of the commander-in-chief, in which answer the said Hastings did express other *contradictory hopes*, namely, that the commander-in-chief *had resolved on prosecuting the war to a final issue*, — "because" (as the said Hastings explains himself) "it appears very plainly that Fyzoola Khân and his adherents *lay at your mercy*, because I apprehend much inconveniency from delays, and because *I am morally certain that no good will be gained by negotiating*": thereby artfully suggesting his wishes of what might be, in his hopes of what had been, resolved; and plainly, though indirectly, instigating the commander-in-chief to much effusion of blood in an immediate attack on the Rohillas, posted as they were "in a very strong situation," and "combating for all."

XI. That the said Hastings, in the answer aforesaid, did further endeavor to inflame the commander-in-chief against the Nabob Fyzoola Khân, by representing the said Nabob "as highly presuming, insolent, and evasive"; and knowing the distrust which

the Nabob Fyzoola Khân entertained of the Vizier, the said Hastings did "expressly desire it should be left wholly to the Vizier to treat with the enemy by *his own agents* and *in his own manner*," — though he, the said Hastings, "by no means wished the Vizier to lose time by seeking an accommodation, since it would be more effectual, more decisive, and more *consistent with his dignity, indeed with his honor, which he has already pledged*, to abide by his first offers, to dictate the conditions of peace, and to admit only an acceptance without reservation, or a clear refusal, from his adversary": thereby affecting to hold up, in opposition to and in exclusion of the substantial claims of justice, certain ideal obligations of dignity and honor, — that is to say, the gratification of pride, and the observance of an arrogant determination once declared.

XII. That, although the said answer did not reach the commander-in-chief until peace was actually concluded, and although the dangerous consequences to be apprehended from the said answer were thereby prevented, yet, by the sentiments contained in the said answer, Warren Hastings, Esquire, did strongly evince his ultimate adherence to all the former violent and unjust principles of his conduct towards the Nabob Fyzoola Khân, which principles were disgraceful to the character and injurious to the interests of this nation; and that the said Warren Hastings did thereby, in a particular manner, exclude himself from any share of credit for "the honorable period put to the Rohilla war, which has in some degree done awa the reproach so wantonly brought on the English name."

PART II.

RIGHTS OF FYZOOLA KHÂN UNDER THE TREATY OF LALL-DANG.

I. THAT, notwithstanding the culpable and criminal reluctance of the President, Hastings, hereinbefore recited, a treaty of peace and friendship between the Vizier Sujah ul Dowlah and the Nabob Fyzoola Khân was finally signed and sealed on the 7th October, 1774, at a place called Lall-Dang, in the presence and with the attestation of the British commander-in-chief, Colonel Alexander Champion aforesaid; and that for the said treaty the Nabob Fyzoola Khân agreed to pay, and did actually pay, the valuable consideration of half his treasure, to the amount of fifteen lacs of rupees, or 150,000*l.* sterling, and upwards.

II. That by the said treaty the Nabob Fyzoola Khân was established in the quiet possession of Rampoor, Shahabad, and "some other districts dependent thereon," subject to certain conditions, of which the more important were as follow.

"That Fyzoola Khân should retain in his service five thousand *troops*, and not a single man more.

"That, with whomsoever the Vizier should make war, Fyzoola Khân should send *two or three thousand men, according to his ability*, to join the forces of the Vizier.

"And that, if the Vizier should march in person, Fyzoola Khân should himself accompany him *with his troops*."

III. That from the terms of the treaty above recited it doth plainly, positively, and indisputably ap-

pear that the Nabob Fyzoola Khân, in case of war, was not bound to furnish more than three thousand men under any construction, unless the Vizier should march in person.

IV. That the Nabob Fyzoola Khân was not positively bound to furnish so many as three thousand men, but an indefinite number, not more than three and not less than two thousand; that of the precise number within such limitations the ability of Fyzoola Khân, and not the discretion of the Vizier, was to be the standard; and that such ability could only mean that which was equitably consistent not only with the external defence of his jaghire, but with the internal good management thereof, both as to its police and revenue.

V. That, even in case the Vizier should march in person, it might be reasonably doubted whether the personal service of the Nabob Fyzoola Khân "with his troops" must be understood to be with *all* his troops, or only with the number before stipulated, not more than three and not less than two thousand men; and that the latter is the interpretation finally adopted by Warren Hastings aforesaid, and the Council of Bengal, who, in a letter to the Court of Directors, dated April 5th, 1783, represent the clauses of the treaty relative to the stipulated aid as meaning simply that Fyzoola Khân "should send two or three thousand men to join the Vizier's forces, or attend in person in case it should be requisite."

VI. That from the aforesaid terms of the treaty it doth not specifically appear of what the stipulated aid

should consist, whether of horse or foot, or in what proportion of both; but that it is the recorded opinion, maturely formed by the said Hastings and his Council, in January, 1783, that even "a single horseman included in the aid which Fyzoola Khân might furnish would prove a literal compliance with the stipulation."

VII. That, in the event of any doubt fairly arising from the terms of the treaty, the Nabob Fyzoola Khân, in consideration of his hereditary right to the whole country, and the price by him actually paid for the said treaty, was in equity entitled to the most favorable construction.

VIII. That, from the attestation of Colonel Champion aforesaid, the government of Calcutta acquired the same right to interpose with the Vizier for the protection of the Nabob Fyzoola Khân as they, the said government, had before claimed from a similar attestation of Sir Robert Barker to assist the Vizier in extirpating the whole nation of the said Fyzoola Khân, — more especially as in the case of Sir Robert Barker it was contrary to the remonstrances of the then administration, and the furthest from the intentions of the said Barker himself, that his attestation should involve the Company, but the attestation of Colonel Champion was authorized by all the powers of the government, as a "sanction" intended "to add validity" to the treaty; that they, the said government, and in particular the said Warren Hastings, as the first executive member of the same, were bound by the ties of natural justice duly to exercise the aforesaid right, if need were; and that their duty so

to interfere was more particularly enforced by the spirit of the censures passed both by the Directors and Proprietors in the Rohilla war, and the satisfaction expressed by the Directors "in the honorable end put to that war."

PART III.

GUARANTY OF THE TREATY OF LALL-DANG.

I. THAT during the life of the Vizier Sujah ul Dowlah, and for some time after his death, under his son and successor, Asoph ul Dowlah, the Nabob Fyzoola Khân did remain without disturbance or molestation; that he did all the while imagine his treaty to be under the sanction of the Company, from Colonel Champion's affixing his signature thereto as a witness, "which signature, as he [Fyzoola Khân] supposed," rendered the Company the *arbitrators* between the Vizier and himself, in case of disputes; and that, being "a man of sense, but *extreme pusillanimity*, a good farmer, fond of wealth, *not possessed of the passion of ambition*," he did peaceably apply himself to "improve the state of his country, and did, *by his own prudence and attention*, increase the revenues thereof beyond the amount specified in Sujah ul Dowlah's grant."

II. That in the year 1777, and in the beginning of the year 1778, being "alarmed at the young Vizier's resumption of a number of jaghires granted by his father to different persons, and the injustice and oppression of his conduct in general," and having now learned (from whom does not appear, but probably from some person supposed of competent author-

ity) that Colonel Champion formerly witnessed the treaty as a private person, the Nabob Fyzoola Khân did make frequent and urgent solicitations to Nathaniel Middleton, Esquire, then Resident at Oude, and to Warren Hastings aforesaid, then Governor-General of Bengal, "for a renovation of his [the Nabob Fyzoola Khân's] treaty with the late Vizier, and the guaranty of the Company," or for a "separate agreement with the Company for his defence": considering them, the Company, as "the only power in which he had confidence, and to which he could look up for protection."

III. That the said Resident Middleton, and the said Governor-General Hastings, did not, as they were in duty bound to do, endeavor to allay the apprehensions of the Nabob Fyzoola Khân by assuring him of his safety under the sanction of Colonel Champion's attestation aforesaid, but by their criminal neglect, if not by positive expressions, (as there is just ground from their subsequent language and conduct to believe,) they, the said Middleton and the said Hastings, did at least keep alive and confirm (whoever may have originally suggested) the said apprehension; and that such neglect alone was the more highly culpable in the said Hastings, inasmuch as he, the said Hastings, in conjunction with other members of the Select Committee of the then Presidency of Bengal, did, on the 17th of September, 1774, write to Colonel Champion aforesaid, publicly authorizing him, the said Colonel Champion, to join his *sanction* to the accommodations agreed on between the Vizier Sujah ul Dowlah and the Nabob Fyzoola Khân, *to add to their validity*, — and on the 6th of October following did again write to the said Colonel Champion, more ex-

plicitly, to join his sanction, "either by attesting the treaty, or *acting as guaranty* on the part of the Company for the performance of it": both which letters, though they did not arrive until after the actual signature of the said Colonel Champion, do yet incontrovertibly mark the solemn intention of the said Committee (of which the said Hastings was President) that the sanction of Colonel Champion's attestation should be regarded as a public, not a private, sanction; and it was more peculiarly incumbent on such persons, who had been members of the said Committee, so to regard the same.

IV. That the said Warren Hastings was further guilty of much criminal concealment for the space of "twelve months," inasmuch as he did not lay before the board the frequent and urgent solicitations which he, the said Hastings, was continually receiving from the Nabob Fyzoola Khân, until the 9th of March, 1778; on which day the said Hastings did communicate to the Council a public letter of the aforesaid Middleton, Resident at Oude, acquainting the board that he, the said Middleton, taking occasion from a late application of Fyzoola Khân for the Company's guaranty, had deputed Mr. Daniel Octavus Barwell (Assistant Resident at Benares, but then on a visit to the Resident Middleton at Lucknow) to proceed with a special commission to Rampoor, there to inquire on the spot into the truth of certain reports circulated to the prejudice of Fyzoola Khân, which reports, however, the said Middleton did afterwards confess himself to have "*always*" *thought* "*in the highest degree improbable.*"

That the said Resident Middleton did "request to

know whether, on proof of Fyzoola Khân's innocence, the honorable board would be pleased to grant him [the Resident] permission to comply with his [Fyzoola Khân's] request of the Company's guarantying his treaty with the Vizier." And the said Middleton, in excuse for having irregularly "availed himself of the abilities of Mr. Daniel Barwell," who belonged to another station, and for deputing him with the aforesaid commission to Rampoor without the previous knowledge of the board, did urge the plea "*of immediate necessity*"; and that such plea, if the necessity really existed, was a strong charge and accusation against the said Warren Hastings, from whose criminal neglect and concealment the urgency of such necessity did arise.

V. That the Governor-General, Warren Hastings aforesaid, did immediately move, "that the board approve the deputation of Mr. Daniel Barwell, and that the Resident [Middleton] be authorized to offer the Company's guaranty for the observance of the treaty subsisting between the Vizier and Fyzoola Khân, provided it meets with the Vizier's concurrence"; and that the Governor-General's proposition was resolved in the affirmative: the usual majority of Council then consisting of Richard Barwell, Esquire, a near relation of Daniel Octavus Barwell aforesaid, and the Governor-General, Warren Hastings, who, in case of an equality, had the casting voice.

VI. That, on receiving from Mr. Daniel Barwell full and early assurance of Fyzoola Khân's "having preserved every article of his treaty inviolate," the Resident, Middleton, applied for the Vizier's concur-

rence, which was readily obtained,—the Vizier, however, "*premising*, that he gave his consent, taking it for granted, that, on Fyzoola Khân's receiving the treaty and *khelaut* [or robe of honor], he was to make him a return of the complimentary presents usually offered on such occasions, and *of such an amount as should be a manifestation of Fyzoola Khân's due sense of his friendship, and suitable to his Excellency's rank to receive*"; and that the Resident, Middleton, "did make himself in some measure responsible for the said presents being obtained," and did write to Mr. Daniel Barwell accordingly.

VII. That, agreeably to the resolution of Council hereinbefore recited, the solicited guaranty, under the seal of the Resident, Middleton, thus duly authorized on behalf of the Company, was transmitted, together with the renewed treaty, to Mr. Daniel Barwell aforesaid at Rampoor, and that they were both by him, the said Barwell, presented to the Nabob Fyzoola Khân, with a solemnity not often paralleled, "in the presence of the greatest part of the Nabob's subjects, who were assembled, that the ceremony might create a full belief in the breasts of all his people that the Company would protect him as long as he strictly adhered to the *letter* of his treaty."

VIII. That, in the conclusion of the said ceremony, the Nabob Fyzoola Khân did deliver to the said Barwell, for the use of the Vizier, a *nuzzer* (or present) of elephants, horses, &c., and did add thereto a lac of rupees, or 10,000*l.* and upwards: which sum the said Barwell, "not being authorized to accept any pecuniary consideration, did at first refuse; but

upon Fyzoola Khân's urging, that on such occasions it was the invariable custom of Hindostan, and *that it must on the present be expected, as it had been formerly the case,*" (but when does not appear,) he, the said Barwell, did accept the said lac in the name of the Vizier, our ally, "in whose wealth" (as Warren Hastings on another occasion observed) "we should participate," and on whom we at that time had an accumulating demand.

IX. That, over and above the lac of rupees thus presented to the Vizier, the Nabob Fyzoola Khân did likewise offer one other lac of rupees, or upwards of 10,000*l.* more, for the Company, "as some acknowledgment of the obligation he received; that, although such acknowledgment was not pretended to be the invariable custom of Hindostan on such occasions, however it might on the present be expected," Mr. Daniel Barwell aforesaid (knowing, probably, the disposition and views of the then actual government at Calcutta) did not, *even at first*, decline the said offer, but, as he was not empowered to accept it, did immediately propose taking a bond for the amount, until the pleasure of the board should be known.

That the offer was accordingly communicated by the said Barwell to the Resident, Middleton, to be by him, the Resident, referred to the board, and that it was so referred; that, in reply to the said reference of the Resident, Middleton, the Governor-General, Warren Hastings, did move and carry a vote of Council, "authorizing Mr. Middleton to accept the offer made by Fyzoola Khân to the Company of one lac of rupees," without assigning any reason whatever in support of the said motion, notwithstanding it was

objected by a member of the board, "that, if the measure was right, it became us to adopt it without such a consideration," and that "our accepting of the lac of rupees as a recompense for our interposition is beneath the dignity of this government [of Calcutta], and will discredit us in the eyes of the Indian powers."

That the acceptance of the said sum, in this circumstance, was beneath the dignity of the said government, and did tend so to discredit us; and that the motion of the said Hastings for such acceptance was therefore highly derogatory to the honor of this nation.

X. That the aforesaid member of the Council did further disapprove altogether of the guaranty, "as unnecessary"; and that another member of Council, Richard Barwell, Esquire, the near relation of Daniel Octavus Barwell, hereinbefore named, did declare, (but after the said guaranty had taken place,) that "this government [of Calcutta] was in fact engaged by Colonel Champion's signature being to the treaty with Fyzoola Khân." That the said unnecessary guaranty did not only subject to an heavy expense a prince whom we were bound to protect, but did further produce in his mind the following obvious and natural conclusion, namely, "*that the signature of any person, in whatever public capacity he at present appears, will not be valid and of effect, as soon as some other shall fill his station*": a conclusion, however, immediately tending to the total discredit of all powers delegated from the board to any individual servant of the Company, and consequently to clog, perplex, and embarrass in future all transactions carried on at a distance from the seat of government, and to

disturb the security of all persons possessing instruments already so ratified, — yet the only conclusion left to Fyzoola Khân which did not involve some affront either to the private honor of the Company's servants or to the public honor of the Company itself; and that the suspicions which originated from the said idea in the breast of Fyzoola Khân to the prejudice of the Resident Middleton's authority did compel the Governor-General, Warren Hastings, to obviate the bad effects of his first motion for the guaranty by a second motion, namely, "That a letter be written to Fyzoola Khân from myself, *confirming the obligations of the Company as guaranties* to the treaty formed between him and the Vizier, — which will be equivalent in its effect, though not in form, to an engagement sent him with the Company's seal affixed to it."

XII.* That, whether the guaranty aforesaid was or was not necessary, whether it created a new obligation or but more fully recognized an obligation previously existing, the Governor-General, Warren Hastings, by the said guaranty, did, in the most explicit manner, pledge and commit the public faith of the Company and the nation; and that by the subsequent letter of the said Hastings (which he at his own motion wrote, confirming to Fyzoola Khân the aforesaid guaranty) the said Hastings did again pledge and commit the public faith of the Company and the nation, in a manner (as the said Hastings himself remarked) "equivalent to an engagement with the Company's seal affixed to it," and more particularly binding the said Hastings personally to exact a due observance of the guarantied treaty, es-

* Sic orig.

pecially to protect the Nabob Fyzoola Khân against any arbitrary construction or unwarranted requisition of the Vizier.

PART IV.

THANKS OF THE BOARD TO FYZOOLA KHÂN.

I. THAT, soon after the completion of the guaranty, in the same year, 1778, intelligence was received in India of a war between England and France; that, on the first intimation thereof, the Nabob Fyzoola Khân, "being indirectly sounded," did show much "promptness to render the Company any assistance within the bounds of his finances and ability"; and that by the suggestion of the Resident, Middleton, hereinbefore named, he, the Nabob Fyzoola Khân, in a letter to the Governor-General and Council, did make a voluntary "offer to maintain two thousand cavalry (all he had) for our service," "though he was under no obligation to furnish the Company with a single man."

II. That the Nabob Fyzoola Khân did even "anticipate the wishes of the board"; and that, "on an application made to him by Lieutenant-Colonel Muir," the Nabob Fyzoola Khân did, "without hesitation or delay," furnish him, the said Muir, with five hundred of his best cavalry.

That the said conduct of the Nabob Fyzoola Khân was communicated by the Company's servants both to each other and to their employers, with expressions of "pleasure" and "particular satisfaction," as an event "even surpassing their expectations"; that the Governor-General, Warren Hastings, was officially

requested to convey "the thanks of the board"; and that, not satisfied with the bare discharge of his duty under the said request, he, the said Hastings, did, on the 8th of January, 1779, write to Fyzoola, "that, *in his own name*," as well as "that of the board, he [the said Hastings] returned him the *warmest* thanks for this instance of his faithful attachment to the Company and the English nation."

IV.* That by the strong expressions above recited the said Warren Hastings did deliberately and emphatically add his own particular confirmation to the general testimony of the Nabob Fyzoola Khân's meritorious fidelity, and of his consequent claim on the generosity, no less than the justice, of the British government.

PART V.

DEMAND OF FIVE THOUSAND HORSE.

I. THAT, notwithstanding his own private honor thus deeply engaged, notwithstanding the public justice and generosity of the Company and the nation thus solemnly committed, disregarding the plain import and positive terms of the guarantied treaty, the Governor-General, Warren Hastings aforesaid, in November, 1780, while a body of Fyzoola Khân's cavalry, voluntarily granted, were still serving under a British officer, did recommend to the Vizier "to require from Fyzoola Khân the quota of troops stipulated by treaty to be furnished by the latter for his [the Vizier's] service, being FIVE THOUSAND HORSE," though, as the Vizier did not march in person, he

* Sic orig.

was not, under any construction of the treaty, entitled by stipulation to more than "*two or three thousand troops*," horse and foot, "according to the ability of Fyzoola Khân"; and that, whereas the said Warren Hastings would have been guilty of very criminal perfidy, if he had simply neglected to interfere as a guaranty against a demand thus plainly contrary to the faith of treaty, so he aggravated the guilt of his perfidy in the most atrocious degree by being himself the first mover and instigator of that injustice, which he was bound by so many ties on himself, the Company, and the nation, not only not to promote, but, by every exertion of authority, influence, and power, to control, to divert, or to resist.

II. That the answer of Fyzoola Khân to the Vizier did represent, with many expressions of deference, duty, and allegiance, that the whole force allowed him was but "five thousand men," and that "these consisted of two thousand horse and three thousand foot; which," he adds, "in consequence of our intimate connection, are equally yours and the Company's": though he does subsequently intimate, that "the three thousand foot are for the management of the concerns of his jaghire, and without them the collections can never be made in time."

That, on the communication of the said answer to the Governor-General, Warren Hastings, he, the said Hastings, (who, as the Council now consisted only of himself and Edward Wheler, Esquire, "united in his own person all the powers of government,") was not induced to relax from his unjust purpose, but did proceed with new violence to record, that "the Nabob Fyzoola Khân *had evaded the perform-*

ance of his part of the treaty between the late Nabob Sujah ul Dowlah and him, to which the Honorable Company were guaranties, and upon which he was lately summoned to furnish the stipulated number of troops, which he is obliged to furnish on the condition by which he holds the jaghire granted to him."

That, by the vague and indefinite term of evasion, the said Warren Hastings did introduce a loose and arbitrary principle of interpreting formal engagements, which ought to be regarded, more especially by guaranties, in a sense the most literally scrupulous and precise.

That he charged with such evasion a moderate, humble, and submissive representation on a point which would have warranted a peremptory refusal and a positive remonstrance; and that in consequence of the said imputed evasion he indicated a disposition to attach such a forfeiture as in justice could only have followed from a gross breach of treaty,—though the said Hastings did not then pretend any actual infringement even of the least among the conditions to which, in the name of the Company, he, the said Hastings, was the executive guaranty.

III. That, however "the number of troops stipulated by treaty may have been understood," at the period of the original demand, "to be five thousand horse," yet the said Warren Hastings, at the time when he recorded the supposed evasion of Fyzoola Khân's answer to the said demand, could not be unacquainted with the express words of the stipulation, as a letter of the Vizier, inserted in the same Consultation, refers the Governor-General to inclosed copies "of all engagements entered into by the late Vizier

and by himself [the reigning Vizier] with Fyzoola Khân," and that the treaty itself, therefore, was at the very moment before the said Warren Hastings: which treaty (as the said Hastings observed with respect to another treaty, in the case of another person) "most assuredly does not contain a syllable to justify his conduct; but, by the unexampled latitude which he assumes in his constructions, he may, if he pleases, extort this or any other meaning from any part of it." *

IV. That the Vizier himself appears by no means to have been persuaded of his own right to five thousand horse under the treaty, — since, in his correspondence on the subject, he, the Vizier, nowhere mentions the treaty as the ground of his demand, except where he is recapitulating to the Governor-General, Warren Hastings, the substance of his, the said Hastings's, own letters; on the contrary, the Vizier hints his apprehensions lest Fyzoola Khân should appeal to the treaty against the demand, as a breach thereof, — in which case, he, the Vizier, informs the said Hastings of the projected reply. "Should Fyzoola Khân" (says the Vizier) "mention anything of the tenor of the treaty, *the first breach of it has been committed by him*, in keeping up more men than allowed of by the treaty: *I have accordingly sent a person to settle that point also.* In case he should mention to me anything respecting the treaty, I will then reproach him with having kept up too many troops, and will oblige him to send the five thousand horse": thereby clearly intimating, that, as a remonstrance against the demand

* Observations on Mr. Bristow's Defence.

as a breach of treaty could only be answered by charging a prior breach of treaty on Fyzoola Khân, so by annulling the whole treaty to reduce the question to a mere question of force, and thus "oblige Fyzoola Khân to send the five thousand horse": "for," (continues the Vizier,) "if, when the Company's affairs, on which my honor depends, require it, Fyzoola Khân will not lend his assistance, *what* USE *is there to continue the country to him?*"

That the Vizier actually did make his application to Fyzoola Khân for the five thousand horse, not as for an aid to which he had a just claim, but as for something over and above the obligations of the treaty, something "that would give increase to their friendship and satisfaction to the Nabob Governor," (meaning the said Hastings,) whose directions he represents as the motive "of his call for the five thousand horse to be employed," not in his, the Vizier's, "but in the Company's service."

And that the aforesaid Warren Hastings did, therefore, in recording the answer of Fyzoola Khân as an evasion of treaty, act in notorious contradiction not only to that which ought to have been the fair construction of the said treaty, but to that which he, the said Hastings, must have known to be the Vizier's own interpretation of the same, disposed as the Vizier was "to reproach Fyzoola Khân with breach of treaty," and to "send up persons who should settle points with him."

V. That the said Warren Hastings, not thinking himself justified, on the mere plea of an evasion, to push forward his proceedings to that extremity which he seems already to have made his scope and object,

and seeking some better color for his unjust and violent purposes, did further move, that commissioners should be sent from the Vizier and the Company to Fyzoola Khân, to insist on a clause of a treaty which nowhere appears, being essentially different from the treaty of Lall-Dang, though not in the part on which the requisition is founded; and the said Hastings did then, in a style unusually imperative, proceed as follows.

"*Demand immediate delivery of three thousand cavalry; and if he should evade or refuse compliance, that the deputies shall deliver him a formal protest against him for breach of treaty*, and return, making this report to the Vizier, which Mr. Middleton is to transmit to the board."

VI. That the said motion of the Governor-General, Hastings, was ordered accordingly,—the Council, as already has been herein related, consisting but of two members, and the said Hastings consequently "uniting in his own person all the powers of government."

VII. That, when the said Hastings ordered the said demand for three thousand cavalry, he, the said Hastings, well knew that a compliance therewith, on the part of the Nabob Fyzoola Khân, was utterly impossible: for he, the said Hastings, had at the very moment before him a letter of Fyzoola Khân, stating, that he, Fyzoola Khân, had "but two thousand cavalry" altogether; which letter is entered on the records of the Company, in the same Consultation, immediately preceding the Governor-General's minute. That the said Hastings, therefore, knew that the only possible consequence of the aforesaid demand necessarily

and inevitably must be a protest for a breach of treaty; and the Court of Directors did not hesitate to declare that the said demand "carried the appearance of a determination to create a pretext for depriving him [Fyzoola Khân] of his jaghire entirely, or to leave him at the mercy of the Vizier."

VIII. That Richard Johnson, Esquire, Assistant Resident at Oude, was, agreeably to the afore-mentioned order of Council, deputed commissioner from Mr. Middleton and the Vizier to Fyzoola Khân; but that he did early give the most indecent proofs of glaring partiality, to the prejudice of the said Fyzoola Khân: for that the very next day (as it seems) after his arrival, he, the said Johnson, from opinions imbibed in his journey, did state himself to be "unwilling to draw any favorable or flattering inferences relatively to the object of his mission," and did studiously seek to find new breaches of treaty, and, without any form of regular inquiry whatever, from a single glance of his eye in passing, did take upon himself to pronounce "the Rohilla soldiers, in the district of Rampoor alone, to be not less than twenty thousand," and the grant of course to be forfeited. And that such a gross and palpable display of a predetermination to discover guilt did argue in the said Johnson a knowledge, a strong presumption, or a belief, that such representations would be agreeable to the secret wishes and views of the said Hastings, under whose orders he, the said Johnson, acted, and to whom all his reports were to be referred.

IX. That the said Richard Johnson did soon after proceed to the immediate object of his mission,

"which" (the said Johnson relates) "was short to a degree." The demand was made, and "a flat refusal" given. The question was repeated, with like effect. The said Johnson, in presence of proper witnesses, then drew up his protest, "together with a memorandum of *a palliative offer* made by the Nabob Fyzoola Khân," and inserted in the protest:—

"That he would, in compliance with the demand, and *in conformity to the treaty, which specified no definite number of cavalry or infantry, only expressing troops*, furnish three thousand men: viz., he would, in addition to the one thousand cavalry already granted, give one thousand more, when and wheresoever required, and one thousand foot,"—together with one year's pay in advance, and funds for the regular payment of them in future.

And this, the said Richard Johnson observes, "I put down at his [the Nabob Fyzoola Khân's] particular desire, but otherwise useless; as *my orders*" (which orders do not appear) "*were, not to receive any palliation, but a negative or affirmative*": though such palliation, as it is called by the said Johnson, might be, as it was, in the strictest conformity to the treaty.

X. That in the said offer the Nabob Fyzoola Khân, instead of palliating, did at once admit the extreme right of the Vizier under the treaty, by agreeing to furnish three thousand men, when he, Fyzoola Khân, would have been justified in pleading his inability to send more than two thousand; that such inability would not (as appears) have been a false and evasive plea, but perfectly true and valid,—as the three thousand foot maintained by Fyzoola Khân were for the purposes of his internal government, for which the

whole three thousand must have been demonstrably necessary; and that the Nabob Fyzoola Khân, by declining to avail himself of a plea so fair, so well founded, and so consonant to the indulgence expressly acknowledged in the treaty, and by thus meeting the specific demand of the Vizier as fully as, according to his own military establishment, he could, did for the said offer deserve rather the thanks of the said Vizier and the Company than the protest which the aforesaid Johnson, under the orders of Warren Hastings, did deliver.

XI. That the report of the said protest, as well as the former letter of the said Johnson, were by the Resident, Middleton, transmitted to the board, together with a letter from the Vizier, founded on the said report and letter of the said Johnson, and proposing in consequence "to resume the grant, and to leave Fyzoola Khân to join his other faithless brethren who were sent across the Ganges."

That the said papers were read in Council on the 4th of June, 1781, when the Governor-General, Warren Hastings, did move and carry a vote to suspend a final resolution on the same: and the said Hastings did not express any disapprobation of the proceedings of the said Johnson; neither did the said Hastings assign any reasons for his motion of suspension, which passed without debate. That in truth the said Hastings had then projected a journey up the country to meet the Vizier for the settlement of articles relative to the regulation of Oude and its dependencies, among which was included the jaghire of Fyzoola Khân; and the said Hastings, for the aforesaid purposes, did, on the 3d of July, by his own casting vote, grant to him-

self, and did prevail on his colleague, Edward Wheler, Esquire, to grant, a certain illegal delegation of the whole powers of the Governor-General and Council, and on the seventh of the same month did proceed on his way to join the Vizier at a place called Chunar, on the borders of Benares; and that the aforesaid vote of suspending a final resolution on the transactions with Fyzoola Khân was therefore in substance and effect a reference thereof by the said Hastings from himself in council with his colleague, Wheler, to himself in conference and negotiation with the Vizier, who, from the first demand of the five thousand horse, had taken every occasion of showing his inclination to dispossess Fyzoola Khân, and who before the said demand (in a letter which does not appear, but which the Vizier himself quotes as antecedent to the said demand) had complained to the said Hastings of the "injury and irregularity in the management of the provinces bordering on Rampoor, arising from Fyzoola Khân having the uncontrolled dominion of that district."

PART VI.

TREATY OF CHUNAR.

I. THAT the Governor-General, Warren Hastings, being vested with the illegal powers before recited, did, on the 19th of September, 1781, enter into a treaty with the Vizier at Chunar, — which treaty (as the said Hastings relates) was drawn up "from a series of requisitions presented to him [the said Hastings] by the Vizier," and by him received "with an instant and unqualified assent to each article"; and that the said Hastings assigns his reasons for such

ready assent in the following words: "I considered the subjects of his [the Vizier's] requests as essential to the reputation of our government, and no less to our interest than his."

II. That in the said treaty of Chunar the third article is as follows.

"That, as Fyzoola Khân has by his breach of treaty forfeited the protection of the English government, and causes by his continuance in his present independent state great alarm and detriment to the Nabob Vizier, he be permitted, *when time shall suit*, to resume his lands, and pay him in money, through the Resident, the amount stipulated by treaty, after deducting the amount and charges of the troops he stands engaged to furnish by treaty; which amount shall be passed to the account of the Company during the continuance of the present war."

III. That, for the better elucidation of his policy in the several articles of the treaty above mentioned, the said Hastings did send to the Council of Calcutta (now consisting of Edward Wheler and John Macpherson, Esquires) two different copies of the said treaty, with explanatory minutes opposed to each article; and that the minute opposed to the third article is thus expressed.

"The conduct of Fyzoola Khân, in refusing the aid demanded, though (1.) *not an absolute breach of treaty*, was evasive and uncandid. (2.) *The demand was made for five thousand cavalry.* (3.) *The engagement in the treaty is literally for five thousand horse and foot.* Fyzoola Khân could not be ignorant that we had no occasion for any succors of infantry from him,

and that cavalry would be of the most essential service. (4.) *So scrupulous an attention to literal expression, when a more liberal interpretation would have been highly useful and acceptable to us, strongly marks his unfriendly disposition, though it may not impeach his fidelity, and leaves him little claim to any exertions from us for the continuance of his jaghires. But* (5.) *I am of opinion that neither the Vizier's nor the Company's interests would be promoted by depriving Fyzoola Khân of his independency, and I have* (6.) *therefore reserved the execution of this agreement to an indefinite term; and our government may always interpose to prevent any ill effects from it.*"

IV. That, in his aforesaid authentic evidence of his own purposes, motives, and principles, in the third article of the treaty of Chunar, the said Hastings hath established divers matters of weighty and serious crimination against himself.

1st. That the said Hastings doth acknowledge therein, that he did, in a public instrument, solemnly recognize, "*as a breach of treaty*," and as such did subject to the consequent penalties, an act which he, the said Hastings, did at the same time think, and did immediately declare, to be "*no breach of treaty*"; and by so falsely and unjustly proceeding against a person under the Company's guaranty, the said Hastings, on his own confession, did himself break the faith of the said guaranty.

2d. That, in justifying this breach of the Company's faith, the said Hastings doth *wholly abandon his second peremptory demand for the three thousand horse*, and the protest consequent thereon; and the said Hastings doth thereby himself condemn the violence and injustice of the same.

3dly. That, in recurring to the original demand of five thousand horse as the ground of his justification, the said Hastings doth falsely assert "the engagement in the treaty to be *literally* FIVE *thousand horse and foot*," whereas it is in fact for TWO *or* THREE *thousand men;* and the said Hastings doth thereby wilfully attempt to deceive and mislead his employers, which is an high crime and misdemeanor in a servant of so great trust.

4thly. That, with a view to his further justification, the said Hastings doth advance a principle that "*a scrupulous attention to the literal expression*" of a guarantied treaty "*leaves*" to the person so observing the same "*but little claim to the exertions*" *of a guaranty on his behalf;* that such a principle is utterly subversive of all faith of guaranties, and is therefore highly criminal in the first executive member of a government that must necessarily stand in that mutual relation to many.

5thly. That the said Hastings doth profess his opinion of an article to which he gave an "*instant and unqualified assent*," that it was a measure "*by which neither the Vizier's nor the Company's interests would be promoted*," but from which, without some interposition, "*ill effects*" *must be expected;* and that the said Hastings doth thereby charge himself with a high breach of trust towards his employers.

6thly. That the said Hastings having thus confessed that consciously and wilfully (from what motives he hath not chosen to confess) he did give his formal sanction to a measure both of injustice and impolicy, he, the said Hastings, doth urge in his defence, that he did at the same time insert words "reserving the execution of the said agreement to an in-

definite term," with an intent that it might in truth be never executed at all,—but that "our government might always interpose," without right, by means of an indirect and undue influence, to prevent the ill effects following from a collusive surrender of a clear and authorized right to interpose; and the said Hastings doth thereby declare himself to have introduced a principle of duplicity, deceit, and double-dealing into a public engagement, which ought in its essence to be clear, open, and explicit; that such a declaration tends to shake and overthrow the confidence of all in the most solemn instruments of any person so declaring, and is therefore an high crime and misdemeanor in the first executive member of government, by whom all treaties and other engagements of the state are principally to be conducted.

V. That, by the explanatory minute aforesaid, the said Warren Hastings doth further, in the most direct manner, contradict his own assertions in the very letter which inclosed the said minute to his colleagues; for that one of the articles to which he there gave "*an instant and unqualified assent, as no less to our interest than to the Vizier's*," he doth here declare unequivocally to be *neither to our interests nor the Vizier's;* and the "*unqualified* assent" given to the said article is now so *qualified* as wholly to defeat itself. That by such irreconcilable contradictions the said Hastings doth incur the suspicion of much criminal misrepresentation in other like cases of unwitnessed conferences; and in the present instance (as far as it extends) the said Hastings doth prove himself to have given an account both of his actions and motives by his own confession untrue, for the purpose of deceiv-

ing his employers, which is an high crime and misdemeanor in a servant of so great trust.

VI. That the said third article of the treaty of Chunar, as it thus stands explained by the said Hastings himself, doth on the whole appear designed to hold the protection of the Company in suspense; that it acknowledges all right of interference to cease, but leaves it to our discretion to determine when it will suit our conveniency to give the Vizier the liberty of acting on the principles by us already admitted; that it is dexterously constructed to balance the desires of one man, rapacious and profuse, against the fears of another, described as "of extreme pusillanimity and wealthy," but that, whatever may have been the secret objects of the artifice and intrigue confessed to form its very essence, it must on the very face of it necessarily implicate the Company in a breach of faith, whichever might be the event, as they must equally break their faith either by withdrawing their guaranty unjustly or by continuing that guaranty in contradiction to this treaty of Chunar; that it thus tends to hold out to India, and to the whole world, that the public principle of the English government is a deliberate system of injustice joined with falsehood, of impolicy, of bad faith, and treachery; and that the said article is therefore in the highest degree derogatory to the honor, and injurious to the interests of this nation.

PART VII.

CONSEQUENCES OF THE TREATY OF CHUNAR.

I. THAT, in consequence of the treaty of Chunar, the Governor-General, Warren Hastings, did send official instructions respecting the various articles of the said treaty to the said Resident, Middleton; and that, in a postscript, the said Hastings did forbid the resumption of the Nabob Fyzoola Khân's jaghire, "until circumstances may render it more expedient and easy to be attempted than the present more material pursuits of government make it appear": thereby intimating a positive limitation of the indefinite term in the explanatory minute above recited, and confining the suspension of the article to the pressure of the war.

II. That, soon after the date of the said instructions, and within two months of the signature of the treaty of Chunar, the said Hastings did cause Sir Elijah Impey, Knight, his Majesty's chief-justice at Fort William, to discredit the justice of the crown of Great Britain by making him the channel of unwarrantable communication, and did, through the said Sir Elijah, signify to the Resident, Middleton, his, the said Hastings's, "approbation of a *subsidy* from Fyzoola Khân."

III. That the Resident, in answer, represents the proper equivalent for two thousand horse and one thousand foot (the forces offered to Mr. Johnson by Fyzoola Khân) to be twelve lacs, or 120,000*l.* sterling and upwards, each year; which the said Resident supposes is considerably beyond what he, Fyzoola

Khân, *will voluntarily pay:* "however, if it is your wish that the claim should be made, I am ready to take it up, and *you may be assured nothing in my power shall be left undone to carry it through.*"

IV. That the reply of the said Hastings doth not appear; but that it does appear on record that "a negotiation" (Mr. Johnson's) "was begun for Fyzoola Khân's cavalry to act with General Goddard, and, on his [Fyzoola Khân's] *evading* it, *that a sum of money was demanded.*"

V. That, in the months of February, March, and April, the Resident, Middleton, did repeatedly propose the resumption of Fyzoola Khân's jaghire, agreeably to the treaty of Chunar; and that, driven to extremity (as the said Hastings supposes) "by the public menaces and denunciations of the Resident and minister," Hyder Beg Khân, a creature of the said Hastings, and both the minister and Resident acting professedly on and under the treaty of Chunar, "the Nabob Fyzoola Khân made such preparations, and such a disposition of his family and wealth, as evidently manifested either an intended or an *expected rupture.*"

VI. That on the 6th of May the said Hastings did send his confidential agent and friend, Major Palmer, on a private commission to Lucknow; and that the said Palmer was charged with secret instructions relative to Fyzoola Khân, but of what import cannot be ascertained, the said Hastings in his public instructions having inserted only the name of Fyzoola Khân, as a mere reference (according to the explanation of

the said Hastings) to what he had verbally communicated to the said Palmer; and that the said Hastings was thereby guilty of a criminal concealment.

VII. That some time about the month of August an engagement happened between a body of Fyzoola Khân's cavalry and a part of the Vizier's army, in which the latter were beaten, and their guns taken; that the Resident, Middleton, did represent the same but as a slight and accidental affray; that it was acknowledged the troops of the Vizier were the aggressors; that it did appear to the board, and to the said Hastings himself, an affair of more considerable magnitude; and that they did make the concealment thereof an article of charge against the Resident, Middleton, though the said Resident did in truth acquaint them with the same, but in a cursory manner.

VIII. That, immediately after the said "fray" at Daranagur, the Vizier (who was "but a cipher in the hands" of the minister and the Resident, both of them directly appointed and supported by the said Hastings) did make of Fyzoola Khân a new demand, equally contrary to the true intent and meaning of the treaty as his former requisitions: which new demand was for the detachment in garrison at Daranagur to be cantoned as a stationary force at Lucknow, the capital of the Vizier; whereas he, the Vizier, had only a right to demand an occasional aid to join his army in the field or in garrison during a war. But the said new demand being *evaded*, or rather refused, agreeably to the fair construction of the treaty, by the Nabob Fyzoola Khân, the matter was for the present dropped.

IX. That in the letter in which the Resident, Middleton, did mention "what he calls the fray" aforesaid, the said Middleton did again apply for the resumption of the jaghire of Rampoor; and that, the objections against the measure being now removed, (by the separate peace with Sindia,) he desired to know if the board "would give assurances of their support to the Vizier, in case, *which*" (says the Resident) "*I think very probable, his* [the Vizier's] *own strength should be found unequal to the undertaking.*"

X. That, although the said Warren Hastings did make the foregoing application a new charge against the Resident, Middleton, yet the said Hastings did only criminate the said Middleton for a proposal tending "at such a crisis to increase the number of our enemies," and did in no degree, either in his articles of charge or in his accompanying minutes, express any disapprobation whatever of the principle; that, in truth, the whole proceedings of the said Resident were the natural result of the treaty of Chunar; that the said proceedings were from time to time communicated to the said Hastings; that, as he nowhere charges any disobedience of orders on Mr. Middleton with respect to Fyzoola Khân, it may be justly inferred that the said Hastings did not interfere to check the proceedings of the said Middleton on that subject; and that by such criminal neglect the said Hastings did make the guilt of the said Middleton, whatever it might be, his own.

PART VIII.

PECUNIARY COMMUTATION OF THE STIPULATED AID.

I. THAT on the charges and for the misdemeanors above specified, together with divers other accusations, the Governor-General, Warren Hastings, in September, 1782, did remove the aforesaid Middleton from his office of Resident at Oude, and did appoint thereto John Bristow, Esquire, whom he had twice before, without cause, recalled from the same; and that about the same time the said Hastings did believe the mind of the Nabob Fyzoola Khân to be so irritated, in consequence of the above-recited conduct of the late Resident, Middleton, and of his, the said Hastings's, own criminal neglect, that he, the said Hastings, found it necessary to write to Fyzoola Khân, assuring him "of the favorable disposition of the government toward him, while he shall not have forfeited it by any improper conduct"; but that the said assurances of the Governor-General did not tend, as soon after appeared, to raise much confidence in the Nabob, over whom a public instrument of the same Hastings was still holding the terrors of a deprivation of his jaghire, and an exile "among his other faithless brethren across the Ganges."

II. That, on the subject of Fyzoola Khân, the said Hastings, in his instructions to the new Resident, Bristow, did leave him to be guided by his own discretion; but he adds, "Be careful to prevent the Vizier's affairs from being involved with new difficulties, while he has already so many to oppress him": thereby plainly hinting at some more decisive measures, whenever the Vizier should be less oppressed with difficulties.

III. That the Resident, Bristow, after acquainting the Governor-General with his intentions, did under the said instructions renew the aforesaid claim for a sum of money, but with much caution and circumspection, distantly sounding Allif Khân, the *vakeel* (or envoy) of Fyzoola Khân at the court of the Vizier; that "Allif Khân wrote to his master on the subject, and in answer he was directed not to agree to the granting of any pecuniary aid."

IV. That the Resident, Bristow, did then openly depute Major Palmer aforesaid, with the concurrence of the Vizier, and the approbation of the Governor-General, to the Nabob Fyzoola Khân, at Rampoor; and that the said Palmer was to "endeavor to convince the Nabob that *all doubts of his attachment to the Vizier are ceased, and whatever claims may be made on him are founded upon the basis of his interest and advantage and a plan of establishing his right to the possession of his jaghire.*" That the sudden ceasing of the said doubts, without any inquiry of the slightest kind, doth warrant a strong presumption of the Resident's conviction that they never really existed, but were artfully feigned, as a pretence for some harsh interposition; and that the indecent mockery of establishing, as a matter of favor, for a pecuniary consideration, rights which were never impeached but by the treaty of Chunar, (an instrument recorded by Warren Hastings himself to be founded on falsehood and injustice,) doth powerfully prove the true purpose and object of all the duplicity, deceit, and double-dealing with which that treaty was projected and executed.

V. That the said Palmer was instructed by the Resident, Bristow, with the subsequent approbation of the Governor-General, "to obtain from Fyzoola Khân *an annual tribute*"; to which the Resident adds,—"*If you can procure from him, over and above this, a peshcush* [or fine] *of at least five lacs*, it would be rendering an essential service to the Vizier, and add to *the confidence his Excellency would hereafter repose in the attachment of the Nabob Fyzoola Khân.*" And that the said Governor-General, Hastings, did give the following extraordinary ground of calculation, as the basis of the said Palmer's negotiation for the annual tribute aforesaid.

"*It was certainly understood*, at the time the treaty was concluded, (of which this stipulation was a part,) that it applied *solely to cavalry:* as the Nabob Vizier, possessing the service of our forces, could not possibly require infantry, and least of all such infantry as Fyzoola Khân could furnish; and *a single horseman included in the aid which Fyzoola Khân might furnish would prove a literal compliance with the said stipulation.* The number, therefore, of horse implied by it ought at least to be ascertained: *we will suppose five thousand*, and, allowing the exigency for their attendance to exist only in the proportion of *one year in five*, reduce the demand to one thousand for the computation of the subsidy, which, at the rate of *fifty rupees* per man, will amount to fifty thousand *per mensem.* This may serve for the basis of this article in the negotiation upon it."

VI. That the said Warren Hastings doth then continue to instruct the said Palmer in the alternative of a refusal from Fyzoola Khân. "If Fyzoola Khân

shall refuse to treat for a subsidy, and claim the benefit of his original agreement in its literal expression, *he possesses a right which we cannot dispute*, and it will in that case remain only to fix the precise number of horse which he shall furnish, which ought at least to exceed twenty-five hundred."

VII. That, in the above-recited instruction, the said Warren Hastings doth insinuate (for he doth not directly assert),—

1st. That we are entitled by treaty to five thousand troops, which he says were undoubtedly intended to be all cavalry.

2d. That the said Hastings doth then admit that a single horseman, included in the aid furnished by Fyzoola Khân, would prove a literal compliance.

3d. That the said Hastings doth next resort again to the supposition of our right to the whole five thousand cavalry.

4th. That the said Hastings doth afterwards think, in the event of an explanation of the treaty, and a settlement of the proportion of cavalry, instead of a pecuniary commutation, it will be all we can demand that the number should *at least exceed twenty-five hundred.*

5th. That the said Hastings doth, in calculating the supposed time of their service, assume an arbitrary estimate of one year of war to four of peace; which (however moderate the calculation may appear on the average of the said Hastings's own government) doth involve a principle in a considerable degree repugnant to the system of perfect peace inculcated in the standing orders of the Company.

6th. That, in estimating the pay of the cavalry to

be commuted, the said Hastings doth fix the pay of each man at fifty rupees a month; which on five thousand troops, all cavalry, (as the said Hastings supposes the treaty of Lall-Dang to have meant,) would amount to an expense of thirty lacs a year, or between 300,000*l.* or 400,000*l.* And this expense, strictly resulting (according to the calculations of the said Hastings) from the intention of Sujah ul Dowlah's grant to Fyzoola Khân, was designed to be supported out of a jaghire valued at fifteen lacs only, or something more than 150,000*l.* of yearly revenue, just half the amount of the expense to be incurred in consideration of the said jaghire.

And that a basis of negotiation so inconsistent, so arbitrary, and so unjust is contrary to that uprightness and integrity which should mark the transactions of a great state, and is highly derogatory to the honor of this nation.

VIII. That, notwithstanding the seeming moderation and justice of the said Hastings in admitting the clear and undoubted right of Fyzoola Khân to insist on his treaty, the head of instruction immediately succeeding doth afford just reason for a violent presumption that such apparent lenity was but policy, to give a color to his conduct: he, the said Hastings, in the very next paragraph, bringing forth a new engine of oppression, as follows.

"To demand the surrender of all the ryots [or peasants] of the Nabob Vizier's dominions to whom Fyzoola has given protection and service, *or an annual tribute in compensation for the loss sustained by the Nabob Vizier in his revenue thus transferred to Fyzoola Khân.*

"You have stated the increase of his jaghire, occa-

sioned by this act, at the moderate sum of fifteen lacs. *The tribute ought at least to be one third of that amount.*

"We conceive that Fyzoola Khân himself may be disposed to yield to the preceding demand, on the additional condition of being allowed to hold his lands in *ultumgaw* [or an inheritable tenure] instead of his present tenure by *jaghire* [or a tenure for life]. This we think the Vizier can have no objection to grant, and we recommend it; *but for this a fine, or peshcush, ought to be immediately paid, in the customary proportion of the jumma, estimated at thirty lacs.*"

IX. That the Resident, Bristow, (to whom the letter containing Major Palmer's instructions is addressed,) nowhere attributes the increase of Fyzoola Khân's revenues to this protection of the fugitive ryots, subjects of the Vizier; that the said Warren Hastings was, therefore, not warranted to make that a pretext of such a peremptory demand. That, as an inducement to make Fyzoola Khân agree to the said demand, it is offered to settle his lands upon a tenure which would secure them to his children; but that settlement is to bring with it a new demand of a fine of thirty lacs, or 300,000*l.* and upwards; that the principles of the said demand are violent and despotic, and the inducement to acquiescence deceitful and insidious; and that both the demand and the inducement are derogatory to the honor of this nation.

X. That Major Palmer aforesaid proceeded under these instructions to Rampoor, where his journey "*to extort a sum of money*" was previously known from Allif Khân, vakeel of Fyzoola Khân at the Vizier's court; and that, notwithstanding the assurances of

the friendly disposition of government given by the said Hastings, (as is herein related,) the Nabob Fyzoola Khân did express the most serious and desponding apprehensions, both by letter and through his vakeel, to the Resident, Bristow, who represents them to Major Palmer in the following manner.

"The Nabob Fyzoola Khân complains of the distresses he has this year suffered from the drought. The whole collections have, with great management, amounted to about twelve lacs of rupees, from which sum he has to support his troops, his family, and several relations and dependants of the late Rohilla chiefs. *He says, it clearly appears to be intended to deprive him of his country, as the high demand you have made of him is inadmissible.* Should he have assented to it, it would be impossible to perform the conditions, and then his reputation would be injured by a breach of agreement. *Allif Khân further represents, that it is his master's intention, in case the demand should not be relinquished by you, first to proceed to Lucknow, where he proposes having an interview with the Vizier and the Resident; if he should not be able to obtain his own terms for a future possession of his jaghire, he will set off for Calcutta in order to pray for justice from the Honorable the Governor-General.* He observes, it is the custom of the Honorable Company, when they deprive a chief of his country, to grant him some allowance. This he expects from Mr. Hastings's bounty; *but if he should be disappointed, he will certainly set off upon a pilgrimage to Mecca and Medina, and renounce the cares of the world. — He directs his vakeel to ascertain whether the English intend to deprive him of his country;* for if they do, he is ready to surrender it, upon receiving an order from the Resident."

XI. That, after much negotiation, the Nabob Fyzoola Khân, "being fully sensible that an engagement to furnish military aid, *however clearly the conditions might be stated, must be a source of perpetual misunderstanding and inconveniencies*," did at length agree with Major Palmer to give fifteen lacs, or 150,000*l.* and upwards, by four instalments, that he might be exempted from all future claims of military service; that the said Palmer represents it to be his belief, "*that no person, not known to possess your* [the said Hastings's] *confidence and support in the degree that I am supposed to do*, would have obtained nearly so good terms"; but from what motive "terms so good" were granted, and how the confidence and support of the said Hastings did truly operate on the mind of Fyzoola Khân, doth appear to be better explained by another passage in the same letter, where the said Palmer congratulates himself on *the satisfaction which he gave to Fyzoola Khân* in the conduct of this negotiation, as he spent a month in order to effect "by argument and persuasion *what he could have obtained in an hour by threats and compulsions.*"

PART IX.

FULL VINDICATION OF FYZOOLA KHÂN BY MAJOR PALMER AND MR. HASTINGS.

I. THAT, in the course of the said negotiation for establishing the rights of the Nabob Fyzoola Khân, Major Palmer aforesaid did communicate to the Resident, Bristow, and through the said Resident to the Council-General of Bengal, the full and direct denial of the Nabob Fyzoola Khân to all and every of the charges made or pretended to be made against him, as follows.

"Fyzoola Khân persists in denying the infringement on his part of any one article in the treaty, or the neglect of any obligation which it imposed upon him.

"He does not admit of *the improvements reported to be made* in his jaghire, and even asserts that the collections this year will fall short of the original *jumma* [or estimate] by reason of the long drought.

"He denies having exceeded the limited number of Rohillas in his service;

"And having refused the required aid of cavalry, made by Johnson, to act with General Goddard.

"He observes, respecting the charge of evading the Vizier's requisition for the cavalry lately stationed at Daranagur, to be stationed at Lucknow, that he is not bound by treaty to maintain a stationary force for the service of the Vizier, but to supply an aid of two or three thousand troops in time of war.

"Lastly, he asserts, that, so far from encouraging the ryots [or peasants] of the Vizier to settle in his jaghire, it has been his constant practice to deliver them up to the Aumil of Rohilcund, whenever he could discover them."

II. That, in giving his opinions on the aforesaid denials of the Nabob Fyzoola Khân, the said Palmer did not controvert any one of the constructions of the treaty advanced by the said Nabob.

That, although the said Palmer, "from general appearances as well as universal report, did not doubt that the jumma of the jaghire is *greatly increased*," yet he, the said Palmer, did not intimate that it was increased in any degree near *the amount reported*, as it was drawn out in a regular estimate transmitted to the said Palmer expressly for the purposes of his nego-

tiation, which was of course by him produced to the Nabob Fyzoola Khân, and to which specifically the denial of Fyzoola Khân must be understood to apply.

That the said Palmer did not hint any doubt of the deficiency affirmed by Fyzoola Khân in the collections for the current year: and,

That, if any increase of jumma did truly exist, whatever it may have been, the said Palmer did acknowledge it "to have been solemnly relinquished (in a private agreement) by the Vizier."

That, although the said Palmer did suppose the number of Rohillas (employed "in ordinary occupations) in Rampoor alone to exceed that limited by the treaty for his [Fyzoola Khân's] service," yet the said Palmer did by no means imply that the Nabob Fyzoola Khân *maintained in his service* a single man more than was allowed by treaty; and by a particular and minute account of the troops of Fyzoola Khân, transmitted by the Resident, Bristow, to the said Palmer, the number was stated but at 5,840, probably including officers, who were not understood to be comprehended in the treaty.

That the said Palmer did further admit it "*to be not clearly expressed* in the treaty, whether the restriction included Rohillas of all descriptions"; but, at any rate, he adds, "it does not appear that their number is formidable, or that he [Fyzoola Khân] *could by any means subsist such numbers as could cause any serious alarm to the Vizier;* neither is there any appearance of their entertaining any views beyond the quiet possession of the advantages which they at present enjoy."

And that, in a subsequent letter, in which the said Palmer thought it prudent "to vindicate him-

self from any possible insinuation that he meant to sacrifice the Vizier's interest," he, the said Palmer, did positively attest the new claim on Fyzoola Khân for the protection of the Vizier's ryots to be wholly without foundation, as the Nabob Fyzoola Khân "had proved to him [Palmer], by producing receipts of various dates and for great numbers of these people surrendered upon requisition from the Vizier's officers."

III. That, over and above the aforesaid complete refutation of the different charges and pretexts under which exactions had been practised, or attempted to be practised, on the Nabob Fyzoola Khân, the said Palmer did further condemn altogether the principle of calculation assumed in such exactions (even if they had been founded in justice) by the following explanation of the nature of the tenure by which, under the treaty of Lall-Dang, the Nabob Fyzoola Khân held his possessions as a jaghiredar.

"There are no precedents in the ancient usage of the country for ascertaining the *nuzzerana* [customary present] or *peshcush* [regular fine] of grants of this nature: *they were bestowed by the prince as rewards or favors;* and the accustomary present in return was adapted to the dignity of the donor rather than to the value of the gift, — *to which it never, I believe, bore any kind of proportion.*"

IV. That a sum of money ("which of course was to be received by the Company") being now obtained, and the "*interests both of the Company and the Vizier*" being thus much "*better promoted*" by "*establishing the rights*" of Fyzoola Khân than they

could have been by "*depriving him of his independency*," when every undue influence of secret and criminal purposes was removed from the mind of the Governor-General, Warren Hastings, Esquire, he, the said Hastings, did also concur with his friend and agent, Major Palmer, in the vindication of the Nabob Fyzoola Khân, and in the most ample manner.

That the said Warren Hastings did now clearly and explicitly understand the clauses of the treaty, "that Fyzoola Khân should send *two* or *three* [and not *five*] thousand men, or *attend in person, in case it was requisite.*"

That the said Warren Hastings did now confess that the right of the Vizier under the treaty was at best "but *a precarious and unserviceable right;* and that he thought fifteen lacs, or 150,000*l.* and upwards, an ample equivalent," (or, according to the expression of Major Palmer, *an excellent bargain,*) as in truth it was, "for expunging an article of such a tenor and so loosely worded."

And, finally, that the said Hastings did give the following description of the general character, disposition, and circumstances of the Nabob Fyzoola Khân.

"The rumors which had been spread of his hostile designs against the Vizier were totally groundless, and if he had been inclined, he had not the means to make himself formidable; on the contrary, being in the decline of life, and possessing a very fertile and prosperous jaghire, it is more natural to suppose that Fyzoola Khân wishes to spend the remainder of his days in quietness than that he is preparing to embark in active and offensive scenes which must end in his own destruction."

V. Yet that, notwithstanding this virtual and implied crimination of his whole conduct toward the Nabob Fyzoola Khân, and after all the aforesaid acts systematically prosecuted in open violation of a positive treaty against a prince who had an hereditary right to more than he actually possessed, for whose protection the faith of the Company and the nation was repeatedly pledged, and who had deserved and obtained the public thanks of the British government, — when, in allusion to certain of the said acts, the Court of Directors had expressed to the said Hastings their wishes "to be considered rather as the guardians of the honor and property of the native powers than as the instruments of oppression," he, the said Hastings, in reply to the said Directors, his masters, did conclude his official account of the final settlement with Fyzoola Khân with the following indecent, because unjust, exultation: —

"Such are the measures which we shall ever wish to observe towards our allies or dependants upon our frontiers."

APPENDIX

TO THE

EIGHTH AND SIXTEENTH CHARGES.*

Copy of a Letter from Warren Hastings, Esquire, to William Devaynes, Esquire, Chairman of the Court of Directors of the East India Company, dated Cheltenham, 11th of July, 1785, and printed by order of the House of Commons.

To William Devaynes, Esquire, Chairman of the Honorable the Court of Directors.

SIR,—The Honorable Court of Directors, in their general letter to Bengal by the "Surprise," dated the 16th March, 1784, were pleased to express their desire that I should inform them of the periods when each sum of the presents mentioned in my address of the 22d May, 1782, was received, what were my motives for withholding the several receipts from the knowledge of the Council, or of the Court of Directors, and what were my reasons for taking bonds for part of these sums, and for paying other sums into the treasury as deposits on my own account.

I have been kindly apprised that the information required as above is yet expected from me. I hope

* As the letter referred to in the Eighth and Sixteenth Articles of Charge is not contained in any of the Appendixes to the Reports of the Select Committee, it has been thought necessary to annex it as an Appendix to these Charges.

that the circumstances of my past situation, when considered, will plead my excuse for having thus long withheld it. The fact is, that I was not at the Presidency when the "Surprise" arrived; and when I returned to it, my time and attention were so entirely engrossed, to the day of my final departure from it, by a variety of other more important occupations, of which, Sir, I may safely appeal to your testimony, grounded on the large portion contributed by myself of the volumes which compose our Consultations of that period, that the submission which my respect would have enjoined me to pay to the command imposed on me was lost to my recollection, perhaps from the stronger impression which the first and distant perusal of it had left on my mind that it was rather intended as a reprehension for something which had given offence in my report of the original transaction than as expressive of any want of a further elucidation of it.

I will now endeavor to reply to the different questions which have been stated to me in as explicit a manner as I am able. To such information as I can give the Honorable Court is fully entitled; and where that shall prove defective, I will point out the easy means by which it may be rendered more complete.

First, I believe I can affirm with certainty, that the several sums mentioned in the account transmitted with my letter above mentioned were received at or within a very few days of the dates which are prefixed to them in the account; but as this contains only the gross sums, and each of these was received in different payments, though at no great distance of time, I cannot therefore assign a greater degree of accuracy

to the account. Perhaps the Honorable Court will judge this sufficient for any purpose to which their inquiry was directed; but if it should not be so, I will beg leave to refer for a more minute information, and for the means of making any investigation which they may think it proper to direct, respecting the particulars of this transaction, to Mr. Larkins, your Accountant-General, who was privy to every process of it, and possesses, as I believe, the original paper, which contained the only account that I ever kept of it. In this each receipt was, as I recollect, specifically inserted, with the name of the person by whom it was made; and I shall write to him to desire that he will furnish you with the paper itself, if it is still in being and in his hands, or with whatever he can distinctly recollect concerning it.

For my motives for withholding the several receipts from the knowledge of the Council, or of the Court of Directors, and for taking bonds for part of these sums, and paying others into the treasury as deposits on my own account, I have generally accounted in my letter to the Honorable the Court of Directors of the 22d May, 1782: namely, that "I either chose to conceal the first receipts from public curiosity by receiving bonds for the amount, or possibly acted without any studied design which my memory at that distance of time could verify; and that I did not think it worth my care to observe the same means with the rest." It will not be expected that I should be able to give a more correct explanation of my intentions after a lapse of three years, having declared at the time that many particulars had escaped my remembrance; neither shall I attempt to add more than the clearer affirmation of the facts implied in that report of

them, and such inferences as necessarily, or with a strong probability, follow them.

I have said that the three first sums of the account were paid into the Company's treasury without passing through my hands. The second of these was forced into notice by its destination and application to the expense of a detachment which was formed and employed against Mahdajee Sindia under the command of Lieutenant-Colonel Camac, as I particularly apprised the Court of Directors in my letter of the 29th November, 1780. The other two were certainly not intended, when I received them, to be made public, though intended for public service, and actually applied to it. The exigencies of the government were at that time my own, and every pressure upon it rested with its full weight upon my mind. Wherever I could find allowable means of relieving those wants, I eagerly seized them; but neither could it occur to me as necessary to state on our Proceedings every little aid which I could thus procure, nor do I know how I could have stated it, without appearing to court favor by an ostentation which I disdain, nor without the chance of exciting the jealousy of my colleagues by the constructive assertion of a separate and unparticipated merit, derived from the influence of my station, to which they might have laid an equal claim. I should have deemed it particularly dishonorable to receive for my own use money tendered by men of a certain class, from whom I had interdicted the receipt of presents to my inferiors, and bound them by oath not to receive them. I was therefore more than ordinarily cautious to avoid the suspicion of it, which would scarcely have failed to light upon me, had I suffered

the money to be brought directly to my own house, or to that of any person known to be in trust for me: for these reasons I caused it to be transported immediately to the treasury. There, you well know, Sir, it could not be received without being passed to some credit, and this could only be done by entering it as a loan or as a deposit: the first was the least liable to reflection, and therefore I had obviously recourse to it. Why the second sum was entered as a deposit I am utterly ignorant: possibly it was done without any special direction from me; possibly because it was the simplest mode of entry, and therefore preferred, as the transaction itself did not require concealment, having been already avowed.

Although I am firmly persuaded that these were my sentiments on the occasion, yet I will not affirm that they were. Though I feel their impression as the remains of a series of thoughts retained on my memory, I am not certain that they may not have been produced by subsequent reflection on the principal fact, combining with it the probable motives of it. Of this I am certain, that it was my design originally to have concealed the receipt of all the sums, except the second, even from the knowledge of the Court of Directors. They had answered my purpose of public utility, and I had almost totally dismissed them from my remembrance. But when fortune threw a sum in my way of a magnitude which could not be concealed, and the peculiar delicacy of my situation at the time in which I received it made me more circumspect of appearances, I chose to apprise my employers of it, which I did hastily and generally: hastily, perhaps to prevent the vigilance and activity of secret calumny; and generally, because I

knew not the exact amount of the sum, of which I was in the receipt, but not in the full possession. I promised to acquaint them with the result as soon as I should be in possession of it, and in the performance of my promise I thought it consistent with it to add to the account all the former appropriations of the same kind: my good genius then suggesting to me, with a spirit of caution which might have spared me the trouble of this apology, had I universally attended to it, that, if I had suppressed them, and they were afterwards known, I might be asked what were my motives for withholding part of these receipts from the knowledge of the Court of Directors and informing them of the rest.

It being my wish to clear up every doubt upon this transaction, which either my own mind could suggest or which may have been suggested by others, I beg leave to suppose another question, and to state the terms of it in my reply, by informing you that the indorsement on the bonds was made about the period of my leaving the Presidency, in the middle of the year 1781, in order to guard against their becoming a claim on the Company, as part of my estate, in the event of my death occurring in the course of the service on which I was then entering.

This, Sir, is the plain history of the transaction. I should be ashamed to request that you would communicate it to the Honorable Court of Directors, whose time is too valuable for the intrusion of a subject so uninteresting, but that it is become a point of indispensable duty; I must therefore request the favor of you to lay it, at a convenient time, before them. In addressing it to you personally, I yield to my own feelings of the respect which is due to them

as a body, and to the assurances which I derive from your experienced civilities that you will kindly overlook the trouble imposed by it.

I have the honor to be, Sir,

Your very humble and most obedient servant,

(Signed) WARREN HASTINGS.

CHELTENHAM, 11 July, 1785.

SPEECHES

IN

THE IMPEACHMENT

OF

WARREN HASTINGS, ESQUIRE,

LATE GOVERNOR-GENERAL OF BENGAL.

SPEECH IN OPENING.

FEBRUARY, 1788.

Edward Howell, First Baron Thurlow

From a picture painted in 1824, by Thomas Phillips, R.A., in the National Portrait Gallery

SPEECH

IN

OPENING THE IMPEACHMENT.

FIRST DAY: FRIDAY, FEBRUARY 15, 1788.

MY LORDS,—The gentlemen who have it in command to support the impeachment against Mr. Hastings have directed me to open the cause with a general view of the grounds upon which the Commons have proceeded in their charge against him. They have directed me to accompany this with another general view of the extent, the magnitude, the nature, the tendency, and the effect of the crimes which they allege to have been by him committed. They have also directed me to give an explanation (with their aid I may be enabled to give it) of such circumstances, preceding the crimes charged on Mr. Hastings, or concomitant with them, as may tend to elucidate whatever may be found obscure in the articles as they stand. To these they wished me to add a few illustrative remarks on the laws, customs, opinions, and manners of the people concerned, and who are the objects of the crimes we charge on Mr. Hastings. The several articles, as they appear before you, will be opened by other gentlemen with more particularity, with more distinctness, and, without doubt, with infinitely more ability, when they come to apply the evidence which naturally belongs to each article of this accusation. This, my Lords, is

the plan which we mean to pursue on the great charge which is now to abide your judgment.

My Lords, I must look upon it as an auspicious circumstance to this cause, in which the honor of the kingdom and the fate of many nations are involved, that, from the first commencement of our Parliamentary process to this the hour of solemn trial, not the smallest difference of opinion has arisen between the two Houses.

My Lords, there are persons who, looking rather upon what was to be found in our records and histories than what was to be expected from the public justice, had formed hopes consolatory to themselves and dishonorable to us. They flattered themselves that the corruptions of India would escape amidst the dissensions of Parliament. They are disappointed. They will be disappointed in all the rest of their expectations which they have formed upon everything, except the merits of their cause. The Commons will not have the melancholy unsocial glory of having acted a solitary part in a noble, but imperfect work. What the greatest inquest of the nation has begun its highest tribunal will accomplish. At length justice will be done to India. It is true that your Lordships will have your full share in this great achievement; but the Commons have always considered that whatever honor is divided with you is doubled on themselves.

My Lords, I must confess, that, amidst these encouraging prospects, the Commons do not approach your bar without awe and anxiety. The magnitude of the interests which we have in charge will reconcile some degree of solicitude for the event with the undoubting confidence with which we repose ourselves

upon your Lordships' justice. For we are men, my Lords; and men are so made, that it is not only the greatness of danger, but the value of the adventure, which measures the degree of our concern in every undertaking. I solemnly assure your Lordships that no standard is sufficient to estimate the value which the Commons set upon the event of the cause they now bring before you. My Lords, the business of this day is not the business of this man, it is not solely whether the prisoner at the bar be found innocent or guilty, but whether millions of mankind shall be made miserable or happy.

Your Lordships will see, in the progress of this cause, that there is not only a long, connected, systematic series of misdemeanors, but an equally connected system of maxims and principles invented to justify them. Upon both of these you must judge. According to the judgment that you shall give upon the past transactions in India, inseparably connected as they are with the principles which support them, the whole character of your future government in that distant empire is to be unalterably decided. It will take its perpetual tenor, it will receive its final impression, from the stamp of this very hour.

It is not only the interest of India, now the most considerable part of the British empire, which is concerned, but the credit and honor of the British nation itself will be decided by this decision. We are to decide by this judgment, whether the crimes of individuals are to be turned into public guilt and national ignominy, or whether this nation will convert the very offences which have thrown a transient shade upon its government into something that will reflect a permanent lustre upon the honor, justice, and humanity of this kingdom.

My Lords, there is another consideration, which augments the solicitude of the Commons, equal to those other two great interests I have stated, those of our empire and our national character, — something that, if possible, comes more home to the hearts and feelings of every Englishman: I mean, the interests of our Constitution itself, which is deeply involved in the event of this cause. The future use and the whole effect, if not the very existence, of the process of an impeachment of high crimes and misdemeanors before the peers of this kingdom upon the charge of the Commons will very much be decided by your judgment in this cause. This tribunal will be found (I hope it will always be found) too great for petty causes: if it should at the same time be found incompetent to one of the greatest, — that is, if little offences, from their minuteness, escape you, and the greatest, from their magnitude, oppress you, — it is impossible that this form of trial should not in the end vanish out of the Constitution. For we must not deceive ourselves: whatever does not stand with credit cannot stand long. And if the Constitution should be deprived, I do not mean in form, but virtually, of this resource, it is virtually deprived of everything else that is valuable in it. For this process is the cement which binds the whole together; this is the individuating principle that makes England what England is. In this court it is that no subject, in no part of the empire, can fail of competent and proportionable justice; here it is that we provide for that which is the substantial excellence of our Constitution, — I mean, the great circulation of responsibility, by which (excepting the

supreme power) no man, in no circumstance, can escape the account which he owes to the laws of his country. It is by this process that magistracy, which tries and controls all other things, is itself tried and controlled. Other constitutions are satisfied with making good subjects; this is a security for good governors. It is by this tribunal that statesmen who abuse their power are accused by statesmen and tried by statesmen, not upon the niceties of a narrow jurisprudence, but upon the enlarged and solid principles of state morality. It is here that those who by the abuse of power have violated the spirit of law can never hope for protection from any of its forms; it is here that those who have refused to conform themselves to its perfections can never hope to escape through any of its defects. It ought, therefore, my Lords, to become our common care to guard this your precious deposit, rare in its use, but powerful in its effect, with a religious vigilance, and never to suffer it to be either discredited or antiquated. For this great end your Lordships are invested with great and plenary powers: but you do not suspend, you do not supersede, you do not annihilate any subordinate jurisdiction; on the contrary, you are auxiliary and supplemental to them all.

Whether it is owing to the felicity of our times, less fertile in great offences than those which have gone before us, or whether it is from a sluggish apathy which has dulled and enervated the public justice, I am not called upon to determine, — but, whatever may be the cause, it is now sixty-three years since any impeachment, grounded upon abuse of authority and misdemeanor in office, has come before this tri-

bunal. The last is that of Lord Macclesfield, which happened in the year 1725. So that the oldest process known to the Constitution of this country has, upon its revival, some appearance of novelty. At this time, when all Europe is in a state of, perhaps, contagious fermentation, when antiquity has lost all its reverence and all its effect on the minds of men, at the same time that novelty is still attended with the suspicions that always will be attached to whatever is new, we have been anxiously careful, in a business which seems to combine the objections both to what is antiquated and what is novel, so to conduct ourselves that nothing in the revival of this great Parliamentary process shall afford a pretext for its future disuse.

My Lords, strongly impressed as they are with these sentiments, the Commons have conducted themselves with singular care and caution. Without losing the spirit and zeal of a public prosecution, they have comported themselves with such moderation, temper, and decorum as would not have ill become the final judgment, if with them rested the final judgment, of this great cause.

With very few intermissions, the affairs of India have constantly engaged the attention of the Commons for more than fourteen years. We may safely affirm we have tried every mode of legislative provision before we had recourse to anything of penal process. It was in the year 1774 [1773 ?] we framed an act of Parliament for remedy to the then existing disorders in India, such as the then information before us enabled us to enact. Finding that the act of Parliament did not answer all the ends that were expected from it, we had, in the year 1782, recourse

to a body of monitory resolutions. Neither had we the expected fruit from them. When, therefore, we found that our inquiries and our reports, our laws and our admonitions, were alike despised, that enormities increased in proportion as they were forbidden, detected, and exposed, — when we found that guilt stalked with an erect and upright front, and that legal authority seemed to skulk and hide its head like outlawed guilt, — when we found that some of those very persons who were appointed by Parliament to assert the authority of the laws of this kingdom were the most forward, the most bold, and the most active in the conspiracy for their destruction, — then it was time for the justice of the nation to recollect itself. To have forborne longer would not have been patience, but collusion; it would have been participation with guilt; it would have been to make ourselves accomplices with the criminal.

We found it was impossible to evade painful duty without betraying a sacred trust. Having, therefore, resolved upon the last and only resource, a penal prosecution, it was our next business to act in a manner worthy of our long deliberation. In all points we proceeded with selection. We have chosen (we trust it will so appear to your Lordships) such a crime, and such a criminal, and such a body of evidence, and such a mode of process, as would have recommended this course of justice to posterity, even if it had not been supported by any example in the practice of our forefathers.

First, to speak of the process: we are to inform your Lordships, that, besides that long previous deliberation of fourteen years, we examined, as a pre-

liminary to this proceeding, every circumstance which could prove favorable to parties apparently delinquent, before we finally resolved to prosecute. There was no precedent to be found in the Journals, favorable to persons in Mr. Hastings's circumstances, that was not applied to. Many measures utterly unknown to former Parliamentary proceedings, and which, indeed, seemed in some degree to enfeeble them, but which were all to the advantage of those that were to be prosecuted, were adopted, for the first time, upon this occasion. In an early stage of the proceeding, the criminal desired to be heard. He was heard; and he produced before the bar of the House that insolent and unbecoming paper which lies upon our table. It was deliberately given in by his own hand, and signed with his own name. The Commons, however, passed by everything offensive in that paper with a magnanimity that became them. They considered nothing in it but the facts that the defendant alleged, and the principles he maintained; and after a deliberation not short of judicial, we proceeded with confidence to your bar.

So far as to the process; which, though I mentioned last in the line and order in which I stated the objects of our selection, I thought it best to dispatch first.

As to the crime which we chose, we first considered well what it was in its nature, under all the circumstances which attended it. We weighed it with all its extenuations and with all its aggravations. On that review, we are warranted to assert that the crimes with which we charge the prisoner at the bar are substantial crimes, — that they are no errors or mistakes, such as wise and good men might possibly

fall into, which may even produce very pernicious effects without being in fact great offences. The Commons are too liberal not to allow for the difficulties of a great and arduous public situation. They know too well the domineering necessities which frequently occur in all great affairs. They know the exigency of a pressing occasion, which, in its precipitate career, bears everything down before it, — which does not give time to the mind to recollect its faculties, to reinforce its reason, and to have recourse to fixed principles, but, by compelling an instant and tumultuous decision, too often obliges men to decide in a manner that calm judgment would certainly have rejected. We know, as we are to be served by men, that the persons who serve us must be tried as men, and with a very large allowance indeed to human infirmity and human error. This, my Lords, we knew and we weighed before we came before you. But the crimes which we charge in these articles are not lapses, defects, errors of common human frailty, which, as we know and feel, we can allow for. We charge this offender with no crimes that have not arisen from passions which it is criminal to harbor, — with no offences that have not their root in avarice, rapacity, pride, insolence, ferocity, treachery, cruelty, malignity of temper, — in short, in [with ?] nothing that does not argue a total extinction of all moral principle, that does not manifest an inveterate blackness of heart, dyed in grain with malice, vitiated, corrupted, gangrened to the very core. If we do not plant his crimes in those vices which the breast of man is made to abhor, and the spirit of all laws, human and divine, to interdict, we desire no longer to be heard upon this occasion. Let everything that can be

pleaded on the ground of surprise or error, upon those grounds be pleaded with success: we give up the whole of those predicaments. We urge no crimes that were not crimes of forethought. We charge him with nothing that he did not commit upon deliberation, — that he did not commit against advice, supplication, and remonstrance, — that he did not commit against the direct command of lawful authority, — that he did not commit after reproof and reprimand, the reproof and reprimand of those who were authorized by the laws to reprove and reprimand him. The crimes of Mr. Hastings are crimes not only in themselves, but aggravated by being crimes of contumacy. They were crimes, not against forms, but against those eternal laws of justice which are our rule and our birthright. His offences are, not in formal, technical language, but in reality, in substance and effect, *high* crimes and high misdemeanors.

So far as to the crimes. As to the criminal, we have chosen him on the same principle on which we selected the crimes. We have not chosen to bring before you a poor, puny, trembling delinquent, misled, perhaps, by those who ought to have taught him better, but who have afterwards oppressed him by their power, as they had first corrupted him by their example. Instances there have been many, wherein the punishment of minor offences, in inferior persons, has been made the means of screening crimes of an high order, and in men of high description. Our course is different. We have not brought before you an obscure offender, who, when his insignificance and weakness are weighed against the power of the prosecution, gives even to public justice something of the appearance of oppression: no, my Lords, we have

brought before you the first man of India, in rank, authority, and station. We have brought before you the chief of the tribe, the head of the whole body of Eastern offenders, a captain-general of iniquity, under whom all the fraud, all the peculation, all the tyranny in India are embodied, disciplined, arrayed, and paid. This is the person, my Lords, that we bring before you. We have brought before you such a person, that, if you strike at him with the firm and decided arm of justice, you will not have need of a great many more examples. You strike at the whole corps, if you strike at the head.

So far as to the crime: so far as to the criminal. Now, my Lords, I shall say a few words relative to the evidence which we have brought to support such a charge, and which ought to be equal in weight to the charge itself. It is chiefly evidence of record, officially signed by the criminal himself in many instances. We have brought before you his own letters, authenticated by his own hand. On these we chiefly rely. But we shall likewise bring before you living witnesses, competent to speak to the points to which they are brought.

When you consider the late enormous power of the prisoner, — when you consider his criminal, indefatigable assiduity in the destruction of all recorded evidence, — when you consider the influence he has over almost all living testimony, — when you consider the distance of the scene of action, — I believe your Lordships, and I believe the world, will be astonished that so much, so clear, so solid, and so conclusive evidence of all kinds has been obtained against him. I have no doubt that in nine instances in ten the evidence is such as would satisfy the narrow precision

supposed to prevail, and to a degree rightly to prevail, in all subordinate power and delegated jurisdiction. But your Lordships will maintain, what we assert and claim as the right of the subjects of Great Britain, that you are not bound by any rules of evidence, or any other rules whatever, except those of natural, immutable, and substantial justice.

God forbid the Commons should desire that anything should be received as proof from them which is not by nature adapted to prove the thing in question! If they should make such a request, they would aim at overturning the very principles of that justice to which they resort; they would give the nation an evil example that would rebound back on themselves, and bring destruction upon their own heads, and on those of all their posterity.

On the other hand, I have too much confidence in the learning with which you will be advised, and the liberality and nobleness of the sentiments with which you are born, to suspect that you would, by any abuse of the forms, and a technical course of proceeding, deny justice to so great a part of the world that claims it at your hands. Your Lordships always had an ample power, and almost unlimited jurisdiction; you have now a boundless object. It is not from this district or from that parish, not from this city or the other province, that relief is now applied for: exiled and undone princes, extensive tribes, suffering nations, infinite descriptions of men, different in language, in manners, and in rites, men separated by every barrier of Nature from you, by the Providence of God are blended in one common cause, and are now become suppliants at your bar. For the honor of this nation, in vindication of this mysterious Providence, let it be

known that no rule formed upon municipal maxims (if any such rule exists) will prevent the course of that imperial justice which you owe to the people that call to you from all parts of a great disjointed world. For, situated as this kingdom is, an object, thank God, of envy to the rest of the nations, its conduct in that high and elevated situation will undoubtedly be scrutinized with a severity as great as its power is invidious.

It is well known that enormous wealth has poured into this country from India through a thousand channels, public and concealed; and it is no particular derogation from our honor to suppose a possibility of being corrupted by that by which other empires have been corrupted, and assemblies almost as respectable and venerable as your Lordships' have been directly or indirectly vitiated. Forty millions of money, at least, have within our memory been brought from India into England. In this case the most sacred judicature ought to look to its reputation. Without offence we may venture to suggest that the best way to secure reputation is, not by a proud defiance of public opinion, but by guiding our actions in such a manner as that public opinion may in the end be securely defied, by having been previously respected and dreaded. No direct false judgment is apprehended from the tribunals of this country; but it is feared that partiality may lurk and nestle in the abuse of our forms of proceeding. It is necessary, therefore, that nothing in that proceeding should appear to mark the slightest trace, should betray the faintest odor of chicane. God forbid, that, when you try the most serious of all causes, that, when you try the cause of Asia in the presence of Europe, there should be

the least suspicion that a narrow partiality, utterly destructive of justice, should so guide us that a British subject in power should appear in substance to possess rights which are denied to the humble allies, to the attached dependants of this kingdom, who by their distance have a double demand upon your protection, and who, by an implicit (I hope not a weak and useless) trust in you, have stripped themselves of every other resource under heaven!

I do not say this from any fear, doubt, or hesitation concerning what your Lordships will finally do, — none in the world; but I cannot shut my ears to the rumors which you all know to be disseminated abroad. The abusers of power may have a chance to cover themselves by those fences and intrenchments which were made to secure the liberties of the people against men of that very description. But God forbid it should be bruited from Pekin to Paris, that the laws of England are for the rich and the powerful, but to the poor, the miserable, and defenceless they afford no resource at all! God forbid it should be said, no nation is equal to the English in *substantial* violence and in *formal* justice, — that in this kingdom we feel ourselves competent to confer the most extravagant and inordinate powers upon public ministers, but that we are deficient, poor, helpless, lame, and impotent in the means of calling them to account for their use of them! An opinion has been insidiously circulated through this kingdom, and through foreign nations too, that, in order to cover our participation in guilt, and our common interest in the plunder of the East, we have invented a set of scholastic distinctions, abhorrent to the common sense and unpropitious to the common necessities of mankind, by which we are to

deny ourselves the knowledge of what the rest of the world knows, and what so great a part of the world both knows and feels. I do not deprecate any appearance which may give countenance to this aspersion from suspicion that any corrupt motive can influence this court; I deprecate it from knowing that hitherto we have moved within the narrow circle of municipal justice. I am afraid, that, from the habits acquired by moving within a circumscribed sphere, we may be induced rather to endeavor at forcing Nature into that municipal circle than to enlarge the circle of national justice to the necessities of the empire we have obtained.

This is the only thing which does create any doubt or difficulty in the minds of sober people. But there are those who will not judge so equitably. Where two motives, neither of them perfectly justifiable, may be assigned, the worst has the chance of being preferred. If, from any appearance of chicane in the court, justice should fail, all men will say, better there were no tribunals at all. In my humble opinion, it would be better a thousand times to give all complainants the short answer the Dey of Algiers gave a British ambassador, representing certain grievances suffered by the British merchants, — "My friend," (as the story is related by Dr. Shaw,) "do not you know that my subjects are a band of robbers, and that I am their captain?" — better it would be a thousand times, and a thousand thousand times more manly, than an hypocritical process, which, under a pretended reverence to punctilious ceremonies and observances of law, abandons mankind without help and resource to all the desolating consequences of arbitrary power. The conduct and event of this cause will put an end

to such doubts, wherever they may be entertained. Your Lordships will exercise the great plenary powers with which you are invested in a manner that will do honor to the protecting justice of this kingdom, that will completely avenge the great people who are subjected to it. You will not suffer your proceedings to be squared by any rules but by their necessities, and by that law of a common nature which cements them to us and us to them. The reports to the contrary have been spread abroad with uncommon industry; but they will be speedily refuted by the humanity, simplicity, dignity, and nobleness of your Lordships' justice.

Having said all that I am instructed to say concerning the process which the House of Commons has used, concerning the crimes which they have chosen, concerning the criminal upon whom they attach the crimes, and concerning the evidence which they mean to produce, I am now to proceed to open that part of the business which falls to my share. It is rather an explanation of the circumstances than an enforcement of the crimes.

Your Lordships of course will be apprised that this cause is not what occurs every day, in the ordinary round of municipal affairs, — that it has a relation to many things, that it touches many points in many places, which are wholly removed from the ordinary beaten orbit of our English affairs. In other affairs, every allusion immediately meets its point of reference; nothing can be started that does not immediately awaken your attention to something in your own laws and usages which you meet with every day in the ordinary transactions of life. But here you are

caught, as it were, into another world; you are to have the way pioneered before you. As the subject is new, it must be explained; as it is intricate as well as new, that explanation can be only comparatively short: and therefore, knowing your Lordships to be possessed, along with all other judicial virtues, of the first and foundation of them all, judicial patience, I hope that you will not grudge a few hours to the explanation of that which has cost the Commons fourteen years' assiduous application to acquire, — that your Lordships will not disdain to grant a few hours to what has cost the people of India upwards of thirty years of their innate, inveterate, hereditary patience to endure.

My Lords, the powers which Mr. Hastings is charged with having abused are the powers delegated to him by the East India Company. The East India Company itself acts under two very dissimilar sorts of powers, derived from two sources very remote from each other. The first source of its power is under charters which the crown of Great Britain was authorized by act of Parliament to grant; the other is from several charters derived from the Emperor of the Moguls, the person in whose dominions they were chiefly conversant, — particularly that great charter by which, in the year 1765, they acquired the high-stewardship of the kingdoms of Bengal, Bahar, and Orissa. Under those two bodies of charters, the East India Company, and all their servants, are authorized to act.

As to those of the first description, it is from the British charters that they derive the capacity by which they are considered as a public body, or at all capa-

ble of any public function. It is from thence they acquire the capacity to take from any power whatsoever any other charter, to acquire any other offices, or to hold any other possessions. This, being the root and origin of their power, renders them responsible to the party from whom all their immediate and consequential powers are derived. As they have emanated from the supreme power of this kingdom, the whole body and the whole train of their servants, the corporate body as a corporate body, individuals as individuals, are responsible to the high justice of this kingdom. In delegating great power to the East India Company, this kingdom has not released its sovereignty; on the contrary, the responsibility of the Company is increased by the greatness and sacredness of the powers that have been intrusted to it. Attempts have been made abroad to circulate a notion that the acts of the East India Company and their servants are not cognizable here. I hope on this occasion your Lordships will show that this nation never did give a power without annexing to it a proportionable degree of responsibility.

As to their other powers, the Company derives them from the Mogul empire by various charters from that crown, and from the great magistrates of that crown, and particularly by the Mogul charter of 1765, by which they obtained the *dewanny*, that is, the office of lord high-steward, of the kingdoms of Bengal, Bahar, and Orissa. By that charter they bound themselves (and bound inclusively all their servants) to perform all the duties belonging to that new office, and to be held by all the ties belonging to that new relation. If the Mogul empire had existed in its vigor, they would have been bound, under that respon-

sibility, to observe the laws, rights, usages, and customs of the natives, and to pursue their benefit in all things: for this duty was inherent in the nature, institution, and purpose of the office which they received. If the power of the sovereign from whom they derived these powers should by any revolution in human affairs be annihilated or suspended, their duty to the people below them, which was created under the Mogul charter, is not annihilated, is not even suspended; and for their responsibility in the performance of that duty, they are thrown back upon that country (thank God, not annihilated) from whence their original power, and all subsequent derivative powers, have flowed. When the Company acquired that high office in India, an English corporation became an integral part of the Mogul empire. When Great Britain virtually assented to that grant of office, and afterwards took advantage of it, Great Britain guarantied the performance of all its duties. Great Britain entered into a virtual act of union with that country, by which we bound ourselves as securities to preserve the people in all the rights, laws, and liberties which their natural, original sovereign was bound to support, if he had been in condition to support them. By the disposition of events, the two duties, flowing from two different sources, are now united in one. The people of India, therefore, come in the name of the Commons of Great Britain, but in their own right, to the bar of this House, before the supreme royal justice of this kingdom, from whence originally all the powers under which they have suffered were derived.

It may be a little necessary, when we are stating the powers the Company have derived from their

charter, and which we state Mr. Hastings to have abused, to state in as short and as comprehensive words as I can (for the matter is large indeed) what the constitution of that Company is,—I mean chiefly, what it is in reference to its Indian service, the great theatre of the abuse. Your Lordships will naturally conceive that it is not to inform you, but to revive circumstances in your memory, that I enter into this detail.

You will therefore recollect, that the East India Company had its origin about the latter end of the reign of Elizabeth, a period of projects, when all sorts of commercial adventures, companies, and monopolies were in fashion. At that time the Company was constituted with extensive powers for increasing the commerce and the honor of this country; because increasing its commerce, without increasing its honor and reputation, would have been thought at that time, and will be thought now, a bad bargain for the country. The powers of the Company were, under that charter, merely commercial. By degrees, as the theatre of operation was distant, as its intercourse was with many great, some barbarous, and all of them armed nations, nations in which not only the sovereign, but the subjects, were armed, it was found necessary to enlarge their powers. The first power they obtained was a power of naval discipline in their ships,—a power which has been since dropped; the next was a power of law martial; the next was a power of civil, and, to a degree, of criminal jurisdiction, within their own factories, upon their own people and their own servants; the next was (and here was a stride indeed) the power of peace and war. Those high and almost incommunicable prerogatives of sov-

ereignty, which were hardly ever known before to be parted with to any subjects, and which in several states were not wholly intrusted to the prince or head of the commonwealth himself, were given to the East India Company. That Company acquired these powers about the end of the reign of Charles the Second; and they were afterwards more fully, as well as more legally, given by Parliament after the Revolution. From this time, the East India Company was no longer merely a mercantile company, formed for the extension of the British commerce: it more nearly resembled a delegation of the whole power and sovereignty of this kingdom sent into the East. From that time the Company ought to be considered as a subordinate sovereign power: that is, sovereign with regard to the objects which it touched; subordinate with regard to the power from whence its great trust was derived.

Under these successive arrangements things took a course very different from their usual order. A new disposition took place, not dreamt of in the theories of speculative politicians, and of which few examples in the least resembling it have been seen in the modern world, none at all in the ancient. In other instances, a political body that acts as a commonwealth was first settled, and trade followed as a consequence of the protection obtained by political power; but here the course of affairs was reversed. The constitution of the Company began in commerce and ended in empire. Indeed, wherever the sovereign powers of peace and war are given, there wants but time and circumstance to make these powers supersede every other. The affairs of commerce will fall at last into their proper rank and situation. However primary in

their original intention, they will become secondary. The possession, therefore, and the power of assertion of these great authorities coinciding with the improved state of Europe, with the improved state of arts in Europe, with the improved state of laws, and, what is much more material, the improved state of military discipline, more and more perfected every day with us, — universal improvement in Europe coinciding with the general decay of Asia, (for the proud day of Asia is passed,) this improvement coinciding with the relaxation and dissolution of the Mogul government, with the decline of its warlike spirit, with the total disuse of the ancient strictness of the military discipline established by Tamerlane, the India Company came to be what it is, a great empire, carrying on, subordinately, a great commerce; it became that thing which was supposed by the Roman law irreconcilable to reason and propriety, — *eundem negotiatorem et dominum:* the same power became the general trader, the same power became the supreme lord.

In this exalted situation, the India Company, however, still preserves traces of its original mercantile character. The whole exterior order of its political service is carried on upon a mercantile plan and mercantile principles. In fact, the East India Company in Asia is a state in the disguise of a merchant. Its whole service is a system of public offices in the disguise of a counting-house. Accordingly, the whole external order and series of the service, as I observed, is commercial; the principal, the inward, the real, is almost entirely political.

This system of the Company's service, its order and discipline, is necessary to be explained to your

Lordships, that you may see in what manner the abuses have affected it. In the first place, all the persons who go abroad in the Company's civil service enter as clerks in the counting-house, and are called by a name to correspond to it, — *writers*. In that condition they are obliged to serve five years. The second step is that of a *factor*, in which they are obliged to serve three years. The third step they take is that of a *junior merchant*, in which they are obliged to serve three years more. At that period they become *senior merchants*, which is the highest stage of advance in the Company's service, — a rank by which they had pretensions, before the year 1774, to the Council, to the succession of the Presidency, and to whatever other honors the Company has to bestow.

The Company had, in its early times, established factories in certain places; which factories by degrees grew to the name of Presidencies and Council, in proportion as the power and influence of the Company increased, and as the political began first to struggle with, and at length to predominate over, the mercantile. In this form it continued till the year 1773, when the legislature broke in, for proper reasons urging them to it, upon that order of the service, and appointed to the superior department persons who had no title to that place under the ordinary usage of the service. Mr. Hastings and Mr. Barwell, whatever other titles they might have had, held solely under the act of Parliament nominating them to that authority; but in all other respects, except where the act and other subsequent acts have not broken in upon it, the whole course of the service remains upon the ancient footing,

that is, the commercial footing, as to the gradation and order of service.

Your Lordships see here a regular series of gradation, which requires eleven years before any persons can arrive at the highest trusts and situations. You will therefore be astonished, when so long a probationary service was required, that effects very different from those to be expected from long probation have happened, and that in a much shorter time than those eleven years you have seen persons returning into this kingdom with affluent, with overbearing fortunes. It will be a great part of your inquiry, when we come before your Lordships to substantiate evidence against Mr. Hastings, to discover how that order came to be so completely broken down and erased that scarce a trace of it for any good purpose remains. Though I will not deny that that order, or that any order in a state, may be superseded by the ruling power, when great talents, upon pressing exigencies, are to be called forth, yet I must say the order itself was formed upon wise principles. It furnished the persons who were put in that course of probation with an opportunity (if circumstances enabled them) of acquiring experience in business of revenue, trade, and policy. It gave to those who watched them a constant inspection of their conduct through all their progress. On the expectants of office it imposed the necessity of acquiring a character in proportion to their standing, in order that all which they had gained by the good behavior of years should not be lost by the misconduct of an hour. It was a great substantial regulation. But scarce a trace of the true spirit of it remains to be discovered in Mr. Hastings's gov-

ernment; for Mr. Hastings established offices, nay, whole systems of offices, and especially a system of offices in 1781, which being altogether new, none of the rules of gradation applied to them; and he filled those offices in such a manner as suited best, not the constitution nor the spirit of the service, but his own particular views and purposes. The consequence has been, that persons in the most immature stages of life have been appointed to conduct affairs which required the greatest maturity of judgment, the greatest possible temper and moderation. Effects naturally consequent have followed upon it. — I shall not trouble your Lordships with any further observations on this system of gradation.

I must, however, remark, before I go further, that there is something in the representation of the East India Company in their Oriental territory different from that, perhaps, of any other nation that has ever transported any part of its power from one country to another. The East India Company in India is not properly a branch of the British nation: it is only a deputation of individuals. When the Tartars entered into China, when the Arabs and Tartars successively entered into Hindostan, when the Goths and Vandals penetrated into Europe, when the Normans forced their way into England, indeed, in all conquests, migrations, settlements, and colonizations, the new people came as the offset of a nation. The Company in India does not exist as a national colony. In effect and substance nobody can go thither that does not go in its service. The English in India are nothing but a seminary for the succession of officers. They are a nation of place-

men; they are a commonwealth without a people; they are a state made up wholly of magistrates. There is nothing to be in propriety called people, to watch, to inspect, to balance against the power of office. The power of office, so far as the English nation is concerned, is the sole power in the country: the consequence of which is, that, being a kingdom of magistrates, what is commonly called the *esprit du corps* is strong in it. This spirit of the body predominates equally in all its parts; by which the members must consider themselves as having a common interest, and that common interest separated both from that of the country which sent them out and from that of the country in which they act. No control upon them exists, — none, I mean, in persons who understand their language, who understand their manners, or can apply their conduct to the laws. Therefore, in a body so constituted, confederacy is easy, and has been general. Your Lordships are not to expect that that should happen in such a body which never happened in any body or corporation, — that is, that they should, in any instance, be a proper check and control upon themselves. It is not in the nature of things. The fundamental principle of the whole of the East India Company's system is monopoly, in some sense or other. The same principle predominates in the service abroad and the service at home; and both systems are united into one, animated with the same spirit, that is, with the corporate spirit. The whole, taken together, is such as has not been seen in the examples of the Moors, the Portuguese, the Spaniards, the Romans, — in no old, in no recent examples. The Dutch may resemble it, but they have not an em-

pire properly so denominated. By means of this peculiar circumstance it has not been difficult for Mr. Hastings to embody abuse, and to put himself at the head of a regular system of corruption.

Another circumstance in that service is deserving of notice. Except in the highest parts of all, the emoluments of office do not in any degree correspond with the trust, nor the nature of the office with its name. In other official systems, the style, in general, is above the function; here it is the reverse. Under the name of junior merchant, senior merchant, writer, and other petty appellations of the counting-house, you have magistrates of high dignity, you have administrators of revenues truly royal, you have judges, civil, and in some respects criminal, who pass judgment upon the greatest properties of a great country. The legal public emoluments that belong to them are very often so inadequate to the real dignity of the character, that it is imposssible, almost absolutely impossible, for the subordinate parts of it, which, though subordinate, are stations of power, to exist, as Englishmen, who look at a fortune to be enjoyed at home as their ultimate object, and to exist in a state of perfect incorruption in that service.

In some parts of Europe, it is true that the greatest situations are often attended with but little emolument; yet still they are filled. Why? Because reputation, glory, fame, the esteem, the love, the tears of joy which flow from happy sensibility, the honest applauses of a grateful country, sometimes pay the cares, anxieties, and toils which wait on great situations in the commonwealth; and in these they pay in money what cannot be paid in fame and reputation. It is the reverse in the service of the India Company.

Glory is not the lot of subordinated merit, — and all the subordinate parts of the gradation are officers who, in comparison with the offices and duties intrusted to them, are miserably provided for; whereas the chief of each great Presidency has emoluments securing him against every mode of temptation. But if this has not secured the head, we may easily judge how the members are to be coerced. Mr. Hastings, at the head of the service, with high legal emoluments, has fouled his hands and sullied his government with bribes. He has substituted oppression and tyranny in the place of legal government. With all that unbounded, licentious power which he has assumed over the public revenues, instead of endeavoring to find a series of gradual, progressive, honorable, and adequate rewards for the persons who serve the public in the subordinate, but powerful situations, he has left them to prey upon the people without the smallest degree of control. In default of honest emolument, there is the unbounded license of power; and, as one of the honestest and ablest servants of the Company said to me in conversation, the civil service of the Company resembled the military service of the Mahrattas, — little pay, but unbounded license to plunder. I do not say that some of the salaries given in India would not sound well here; but when you consider the nature of the trusts, the dignity of the situation, whatever the name of them may be, the powers that are granted, the hopes that every man has of establishing himself at home, I repeat, it is a source of infinite grievance, of infinite abuse: of which source of corrupt power we charge Mr. Hastings with having availed himself, in filling up the void of direct pay by finding out and countenancing every kind of

oblique and unjust emolument; though it must be confessed that he is far from being solely guilty of this offence.

Another circumstance which distinguishes the East India Company is the youth of the persons who are employed in the system of that service. The servants have almost universally been sent out to begin their progress and career in active occupation, and in the exercise of high authority, at that period of life which, in all other places, has been employed in the course of a rigid education. To put the matter in a few words, — they are transferred from slippery youth to perilous independence, from perilous independence to inordinate expectations, from inordinate expectations to boundless power. School-boys without tutors, minors without guardians, the world is let loose upon them with all its temptations, and they are let loose upon the world with all the powers that despotism involves.

It is further remarkable, these servants exercise what your Lordships are now exercising, high judicial powers, and they exercise them without the smallest study of any law, either general or municipal. It is made a sort of rule in the service, a rule confirmed even by the attempts that were made to correct it, (I mean confirmed by Sir Elijah Impey, when, under the auspices of Mr. Hastings, he undertook to be legislator for India,) that the judicial character, the last in the order of legal progress, that to which all professional men look up as the crown of their labors, that ultimate hope of men grown gray in professional practice, is among the first experimental situations of a Company's servant. It is expressly said in that body of regulations to which I allude, that the office and sit-

uation of a judge of the Dewanny Courts of Adawlut is to be filled by the *junior* servants of the Company; and as the judicial emolument is not substantially equal to that of other situations, the office of a judge is to be taken, as it were, *in transitu*, as a passage to other offices not of a judicial nature. As soon, therefore, as a young man has supplied the defects of his education by the advantage of some experience, he is immediately translated to a totally different office; and another young man is substituted, to learn, at the expense of the property of India, to fill a situation which, when he may be qualified to fill, he is no longer to hold.

It is in a great measure the same with regard to the other situations. They are the situations of great statesmen, which, according to the practice of the world, require, to fill properly, rather a large converse with men and much intercourse in life than deep study of books, — though that, too, has its eminent service. We know that in the habits of civilized life, in cultivated society, there is imbibed by men a good deal of the solid practice of government, of the true maxims of state, and everything that enables a man to serve his country. But these men are sent over to exercise functions at which a statesman here would tremble, without any theoretical study, and without any of that sort of experience which, in mixed societies of business and converse, form men gradually and insensibly to great affairs. Low cunning, intrigue, and stratagem are soon acquired; but manly, durable policy, which never sacrifices the general interest to a partial or momentary advantage, is not so cheaply formed in the human understanding.

Mr. Hastings, in his defence before the House of

Commons, and in the defences he has made before your Lordships, has lamented his own situation in this particular. It was much to be lamented, indeed. How far it will furnish justification, extenuation, or palliation of his conduct, when we come to examine that conduct, will be seen.

These circumstances in the system have in a great degree vitiated and perverted what is in reality (and many things are in reality) excellent in it. They have rendered the application of all correctives and remedies to abuse, at best, precarious in their operation. The laws that we have made, the covenants which the Company has obliged its servants to enter into, the occasional orders that have been given, at least ostensibly good, all have proved noxious to the country, instead of beneficial.

To illustrate this point, I beg leave to observe to your Lordships, that the servants of the Company are obliged to enter into that service not only with an impression of the general duty which attaches upon all servants, but are obliged to engage in a specific covenant with their masters to perform all the duties described in that covenant (which are all the duties of their relation) under heavy penalties. They are bound to a repetition of these covenants at every step of their progress, from writer to factor, from factor to junior merchant, and from junior merchant to senior merchant. They ought, according to the rule, to renew these covenants at these times by something (I speak without offence) which may be said to resemble confirmation in the Church. They are obliged to renew their obligation in particular to receive no gifts, gratuities, or presents whatsoever.

This scheme of covenants would have been wise

and proper, if it had belonged to a judicious order, and rational, consistent scheme of discipline. The orders of the Company have forbidden their servants to take any extraneous emoluments. The act of Parliament has fulminated against them. Clear, positive laws, and clear, positive private engagements, have no exception of circumstances in them, no difference *quoad majus et minus;* but every one who offends against the law is liable to the law. The consequence is this: he who has deviated but an inch from the straight line, he who has taken but one penny of unlawful emolument, (and all have taken many pennies of unlawful emolument,) does not dare to complain of the most abandoned extortion and cruel oppression in any of his fellow-servants. He who has taken a trifle, perhaps as the reward of a good action, is obliged to be silent, when he sees whole nations desolated around him. The great criminal at the head of the service has the laws in his hand; he is always able to prove the small offence, and crush the person who has committed it. This is one grand source of Mr. Hastings's power. After he had got the better of the Parliamentary commission, no complaint from any part of the service has appeared against Mr. Hastings. He is bold enough to state it as one presumption of his merit, that there has been no such complaint. No such complaint, indeed, can exist. The spirit of the corps would of itself almost forbid it, — to which spirit an informer is the most odious and detestable of all characters, and is hunted down, and has always been hunted down, as a common enemy. But here is a new security. Who can complain, or dares to accuse? The whole service is irregular: nobody is

free from small offences; and, as I have said, the great offender can always crush the small one.

If you examine the correspondence of Mr. Hastings, you would imagine, from many expressions very deliberately used by him, that the Company's service was made out of the very filth and dregs of human corruption; but if you examine his conduct towards the corrupt body he describes, you would imagine he had lived in the speculative schemes of visionary perfection. He was fourteen years at the head of that service; and there is not an instance, no, not one single instance, in which he endeavored to detect corruption, or that he ever, in any one single instance, attempted to punish it; but the whole service, with that whole mass of enormity which he attributes to it, slept, as it were, at once under his terror and his protection: under his protection, if they did not dare to move against him; under terror, from his power to pluck out individuals and make a public example of them, whenever he thought fit. And therefore that service, under his guidance and influence, was, beyond even what its own nature disposed it to, a service of confederacy, a service of connivance, a service composed of various systems of guilt, of which Mr. Hastings was the head and the protector. But this general connivance he did not think sufficient to secure to him the general support of the Indian interest. He went further. We shall prove to your Lordships, that, when the Company were driven by shame, not by inclination, to order several prosecutions against delinquents in their service, Mr. Hastings, directly contrary to the duty of his office, directly contrary to the express and positive law of the Court of Directors, which law Parliament had

bound upon him as his rule of action, not satisfied with his long tacit connivance, ventured, before he left his government, and among his last acts, to pass a general act of pardon and indemnity, and at once ordered the whole body of the prosecutions directed by his masters, the Company, to be discharged.

Having had fourteen years' lease of connivance to bestow, and giving at the end a general release of all suits and actions, he now puts himself at the head of a vast body enriched by his bounties, connivances, and indemnities, and expects the support of those whom he had thus fully rewarded and discharged from the pursuit of the laws. You will find, in the course of this business, that, when charges have been brought against him of any bribery, corruption, or other malversation, his course has been to answer little or nothing to that specific bribery, corruption, or malversation: his way has been to call on the Court of Directors to inquire of every servant who comes to Europe, and to say whether there was any one man in it that will give him an ill word. He has put himself into a situation in which he may always safely call to his character, and will always find himself utterly incapable of justifying his conduct.

So far I have troubled your Lordships with the system of confederacy and connivance, which, under his auspices, was the vital principle of almost the whole service. There is one member of the service which I have omitted: but whether I ought to have put it first, or, as I do now, last, I must confess I am at some loss; because, though it appears to be the lowest (if any regular) part of the service, it is by far the most considerable and the most efficient, without a full consideration and explanation of which

hardly any part of the conduct of Mr. Hastings, and of many others that may be in his situation, can be fully understood.

I have given your Lordships an account of writers, factors, merchants, who exercise the office of judges, lord chancellors, chancellors of the exchequer, ministers of state, and managers of great revenues. But there is another description of men, of more importance than them all, a description you have often heard of, but which has not been sufficiently explained: I mean the *banian*. When the Company's service was no more than mercantile, and the servants were generally unacquainted with the country, they used the intervention of certain factors among the natives, which were called *banians:* we called them so, because they were of the tribe or caste of the banians or merchants, — the Indians being generally distributed into trades according to their tribes. The name still continues, when the functions of the banians are totally altered. The banian is known by other appellations. He is called *dewan*, or steward; and, indeed, this is a term with more propriety applied to him in several of his functions. He is, by his name of office, the steward of the household of the European gentleman: he has the management of his affairs, and the ordering of his servants. He is himself a domestic servant, and generally chosen out of that class of natives who, by being habituated to misery and subjection, can submit to any orders, and are fit for any of the basest services. Trained under oppression, (it is the true education,) they are fit to oppress others. They serve an apprenticeship of servitude to qualify them for the trade of tyranny. They know all the devices, all the little frauds, all the arti-

fices and contrivances, the whole panoply of the defensive armor by which ingenious slavery secures itself against the violence of power. They know all the lurking-holes, all the winding recesses, of the unfortunate; and they hunt out distress and misery even to their last retreats. They have suffered themselves; but, far from being taught by those sufferings to abstain from rigor, they have only learned the methods of afflicting their fellow-slaves. They have the best intelligence of what is done in England. The moment a Company's servant arrives in India, and his English connections are known to be powerful, some of that class of people immediately take possession of him, as if he were their inheritance. They have knowledge of the country and its affairs; they have money; they have the arts of making money. The gentleman who comes from England has none of these; he enters into that world, as he enters into the world at large, naked. His portion is great simplicity, great indigence, and a strong disposition to relieve himself. The banian, once in possession, employs his tyranny, not only over the native people of his country, but often over the master himself, who has little other share in the proceedings of his servant but in giving him the ticket of his name to mark that he is connected with and supported by an European who is himself well connected and supported at home. This is a commission which nothing can resist. From that moment forward it is not the Englishman, it is the black banian, that is the master. The nominal master often lives from his hand. We know how young men are sent out of this country; we know how happy we are to hear soon that they are no longer a burden to their friends and parents.

The banian knows it, too. He supplies the young servant with money. He has him under his power: first, from the necessity of employing such a man; and next, (and this is the more important of the two,) he has that dreadful power over his master which every creditor has over his debtor. Actions the most abhorrent to his nature he must see done before his face, and thousands and thousands worse are done in his absence, and he dare not complain. The banian extorts, robs, plunders, and then gives him just what proportion of the spoil he pleases. If the master should murmur, the very power that was sent over to protect the people of India from these very abuses, (the best things being perverted, when applied to unknown objects and put into unsuitable situations,) the very laws of England, by making the recovery of debts more easy, infinitely increase the power of the banian over his master. Thus the Supreme Court of Justice, the destined corrector of all abuses, becomes a collateral security for that abominable tyranny exercised by the moneyed banians over Europeans as well as the natives. So that, while we are here boasting of the British power in the East, we are in perhaps more than half our service nothing but the inferior, miserable instruments of the tyranny which the lowest part of the natives of India exercise, to the disgrace of the British authority, and to the ruin of all that is respectable among their own countrymen. They have subverted the first houses, totally ruined and undone the country, cheated and defrauded the revenue, — the master a silent, sometimes a melancholy spectator, until some office of high emolument has emancipated him. This has often been the true reason that the Company's servants in India, in or-

der to free themselves from this horrid and atrocious servitude, are obliged to become instruments of another tyranny, and must prostitute themselves to men in power, in order to obtain some office that may enable them to escape the servitudes below, and enable them to pay their debts. And thus many have become the instruments of Mr. Hastings.

These banians, or dewans, were originally among the lower castes in the country. But now, it is true, that, after seeing the power and profits of these men, — that there is neither power, profession, nor occupation to be had, which a reputable person can exercise, but through that channel, — men of higher castes, and born to better things, have thrown themselves into that disgraceful servitude, have become menial servants to Englishmen, that they might rise by their degradation. But whoever they are, or of whatever birth, they have equally prostituted their integrity, they have equally lost their character; and, once entered into that course of life, there is no difference between the best castes and the worst. That system Mr. Hastings confirmed, established, increased, and made the instrument of the most austere tyranny, of the basest peculations, and the most scandalous and iniquitous extortions.

In the description I have given of banians a distinction is to be made. Your Lordships must distinguish the banians of the British servants in subordinate situations and the banians who are such to persons in higher authority. In the latter case the banian is in strict subordination, because he may always be ruined by his superior; whereas in the former it is always in his power to ruin his nominal superior. It was not through fear, but

voluntarily, and not for the banian's purposes, but his own, Mr. Hastings has brought forward his banian. He seated him in the houses of the principal nobility, and invested him with farms of the revenue; he has given him enormous jobs; he has put him over the heads of a nobility which, for their grandeur, antiquity, and dignity, might almost be matched with your Lordships. He has made him supreme ecclesiastical judge, judge even of the very castes, in the preservation of the separate rules and separate privileges of which that people exists. He who has dominion over the caste has an absolute power over something more than life and fortune.

Such is that first, or last, (I know not which to call it,) order in the Company's service called a banian. The *mutseddies*, clerks, accountants, of Calcutta, generally fall under this description. Your Lordships will see hereafter the necessity of giving you, in the opening the case, an idea of the situation of a banian. You will see, as no Englishman, properly speaking, acts by himself, that he must be made responsible for that person called his banian, — for the power he either uses under him, or the power he has acquired over him. The banian escapes, in the night of his complexion and situation, the inquiry that a white man cannot stand before in this country. Through the banians, or other black natives, a bad servant of the Company receives his bribes. Through them he decides falsely against the titles of litigants in the court of castes, or in the offices of public registry. Through them Mr. Hastings has exercised oppressions which, I will venture to say, in his own name, in his own character, daring as he is, (and he is the most daring criminal that ever existed,) he

never would dare to practise. Many, if not most, of the iniquities of his interior bad administration have been perpetrated through these banians, or other native agents and confidants; and we shall show you that he is not satisfied with one of them, confiding few of his secrets to Europeans, and hardly any of his instruments, either native or European, knowing the secrets of each other. This is the system of banianism, and of concealment, which Mr. Hastings, instead of eradicating out of the service, has propagated by example and by support, and enlarged by converting even Europeans into that dark and insidious character.

I have explained, or endeavored to explain, to your Lordships these circumstances of the true spirit, genius, and character, more than the ostensible institutions of the Company's service: I now shall beg leave to bring before you one institution, taken from the mercantile constitution of the Company, so excellent, that I will venture to say that human wisdom has never exceeded it. In this excellent institution the counting-house gave lessons to the state. The active, awakened, and enlightened principle of self-interest will provide a better system for the guard of that interest than the cold, drowsy wisdom of those who provide for a good out of themselves ever contrived for the public. The plans sketched by private prudence for private interest, the regulations by mercantile men for their mercantile purposes, when they can be applied to the discipline and order of the state, produce a discipline and order which no state should be ashamed to copy. The Company's mercantile regulations are admirably fitted for the government of a remote, large, disjointed empire. As merchants, hav-

ing factors abroad in distant parts of the world, they have obliged them to a minuteness and strictness of register, and to a regularity of correspondence, which no state has ever used in the same degree with regard to its public ministers. The Company has made it a fundamental part of their constitution, that almost their whole government shall be a written government. Your Lordships will observe, in the course of the proceeding, the propriety of opening fully to you this circumstance in the government of India, — that is, that the Company's government is a government of writing, a government of record. The strictest court of justice, in its proceeding, is not more, perhaps not so much a court of record as the India Company's executive service is, or ought to be, in all its proceedings.

In the first place, they oblige their servants to keep a journal or diary of all their transactions, public and private: they are bound to do this by an express covenant. They oblige them, as a corrective upon that diary, to keep a letter-book, in which all their letters are to be regularly entered. And they are bound by the same covenant to produce all those books upon requisition, although they should be mixed with affairs concerning their own private negotiations and transactions of commerce, or their closest and most retired concerns in private life. But as the great corrective of all, they have contrived that every proceeding in public council shall be written, — no debates merely verbal. The arguments, first or last, are to be in writing, and recorded. All other bodies, the Houses of Lords, Commons, Privy Council, Cabinet Councils for secret state deliberations, enter only resolves, decisions, and final resolu-

tions of affairs: the argument, the discussion, the dissent, does very rarely, if at all, appear. But the Company has proceeded much further, and done much more wisely, because they proceeded upon mercantile principles; and they have provided, either by orders or course of office, that all shall be written, — the proposition, the argument, the dissent. This is not confined to their great Council; but this order ought to be observed, as I conceive, (and I see considerable traces of it in practice,) in every Provincial Council, whilst the Provincial Councils existed, and even down to the minutest ramification of their service. These books, in a progression from the lowest Councils to the highest Presidency, are ordered to be transmitted, duplicate and triplicate, by every ship that sails to Europe. On this system an able servant of the Company, and high in their service, has recorded his opinion, and strongly expressed his sentiments. Writing to the Court of Directors, he says, "It ought to be remembered, that the basis upon which you rose to power, and have been able to stand the shock of repeated convulsions, has been the accuracy and simplicity of mercantile method, which makes every transaction in your service and every expenditure a matter of record."

My Lords, this method not only must produce to them, if strictly observed, a more accurate idea of the nature of their affairs and the nature of their expenditures, but it must afford them no trivial opportunity and means of knowing the true characters of their servants, their capacities, their ways of thinking, the turn and bias of their minds. If well employed, and but a little improved, the East India Company possessed an advantage unknown before to the chief of a

remote government. In the most remote parts of the world, and in the minutest parts of a remote service, everything came before the principal with a domestic accuracy and local familiarity. It was in the power of a Director, sitting in London, to form an accurate judgment of every incident that happened upon the Ganges and the Gogra.

The use of this recorded system did not consist only in the facility of discovering what the nature of their affairs and the character and capacity of their servants was, but it furnished the means of detecting their misconduct, frequently of proving it too, and of producing the evidence of it judicially under their own hands. For your Lordships must have observed that it is rare indeed, that, in a continued course of evil practices, any uniform method of proceeding will serve the purposes of the delinquent. Innocence is plain, direct, and simple: guilt is a crooked, intricate, inconstant, and various thing. The iniquitous job of to-day may be covered by specious reasons; but when the job of iniquity of to-morrow succeeds, the reasons that have colored the first crime may expose the second malversation. The man of fraud falls into contradiction, prevarication, confusion. This hastens, this facilitates, conviction. Besides, time is not allowed for corrupting the records. They are flown out of their hands, they are in Europe, they are safe in the registers of the Company, perhaps they are under the eye of Parliament, before the writers of them have time to invent an excuse for a direct contrary conduct to that to which their former pretended principles applied. This is a great, a material part of the constitution of the Company. My Lords, I do not think it to be much apolo-

gized for, if I repeat, that this is the fundamental regulation of that service, and which, if preserved in the first instance, as it ought to be, in official practice in India, and then used as it ought to be in England, would afford such a mode of governing a great, foreign, dispersed empire, as, I will venture to say, few countries ever possessed, even in governing the most limited and narrow jurisdiction.

It was the great business of Mr. Hastings's policy to subvert this great political edifice. His first mode of subverting it was by commanding the public ministers, paid by the Company, to deliver their correspondence upon the most critical and momentous affairs to him, in order to be suppressed and destroyed at his pleasure. To support him in this plan of spoliation, he has made a mischievous distinction in public business between public and private correspondence. The Company's orders and covenants made none. There are, readily I admit, thousands of occasions in which it is not proper to divulge promiscuously a private correspondence, though on public affairs, to the world; but there is no occasion in which it is not a necessary duty, on requisition, to communicate your correspondence to those who form the paramount government, on whose interests and on whose concerns and under whose authority this correspondence has been carried on. The very same reasons which require secrecy with regard to others demand the freest communication to them. But Mr. Hastings has established principles of confidence and secrecy towards himself which have cut off all confidence between the Directors and their ministers, and effectually kept them at least out of the secret of their own affairs.

Without entering into all the practices by which he has attempted to maim the Company's records, I shall state one more to your Lordships, — that is, his avowed appointment of spies and under-agents, who shall carry on the real state business, while there are public and ostensible agents who are not in the secret. The correspondence of those private agents he holds in his own hands, communicates as he thinks proper, but most commonly withholds. There remains nothing for the Directors but the shell and husk of a dry, formal, official correspondence, which neither means anything nor was intended to mean anything.

These are some of the methods by which he has defeated the purposes of the excellent institution of a recorded administration. But there are cases to be brought before this court in which he has laid the axe at once to the root, — which was, by delegating out of his own hands a great department of the powers of the Company, which he was himself bound to execute, to a board which was not bound to record their deliberations with the same strictness as he himself was bound. He appointed of his own usurped authority a board for the administration of the revenue, the members of which were expressly dispensed from recording their dissents, until they chose it; and in that office, as in a great gulf, a most important part of the Company's transactions has been buried.

Notwithstanding his unwearied pains in the work of spoliation, some precious fragments are left, which we ought infinitely to value, — by which we may learn, and lament, the loss of what he has destroyed. If it were not for those inestimable fragments and wrecks of the recorded government which have been

saved from the destruction which Mr. Hastings intended for them all, the most shameful enormities that have ever disgraced a government or harassed a people would only be known in this country by secret whispers and unauthenticated anecdotes; the disgracers of government, the vexers and afflicters of mankind, instead of being brought before an awful public tribunal, might have been honored with the highest distinctions and rewards their country has to bestow; and sordid bribery, base peculation, iron-handed extortion, fierce, unrelenting tyranny, might themselves have been invested with those sacred robes of justice before which this day they have cause to tremble.

Mr. Hastings, sensible of what he suffers from this register of acts and opinions, has endeavored to discredit and ruin what remains of it. He refuses, in his defence to the House of Commons, in letters to the Court of Directors, in various writings and declarations, he refuses to be tried by his own recorded declarations; he refuses to be bound by his own opinions, delivered under his own hand. He knows that he and the record cannot exist together. He knows that what remains of the written constitution which he has not destroyed is enough to destroy him. He claims a privilege of systematic inconstancy, a privilege of prevarication, a privilege of contradiction, — a privilege of not only changing his conduct, but the principles of his conduct, whenever it suits his occasions. But I hope your Lordships will show the destroyers of that wise constitution, and the destroyers of those records which are to be the securities against malversation in office, the discoverers and avengers of it, that whoever destroys the dis-

coverer establishes the iniquity; that, therefore, your Lordships will bind him to his own declarations, given on record under his own hand; that you will say to this unfaithful servant of the Company, what was said to another unfaithful person upon a far less occasion by a far greater authority, "Out of thy own mouth will I judge thee, thou wicked servant."

Having gone through what I have been instructed might be necessary to state to your Lordships concerning the Company's constitution, (I mean the real inside, and not the shell of its constitution,) — having stated the abuses that existed in it, — having stated how Mr. Hastings endeavored to perpetuate and to increase and to profit of the abuse, and how he has systematically endeavored to destroy, and has in some instances in fact destroyed, many things truly excellent in that constitution, — if I have not wasted your time in explanation of matters that you are already well acquainted with, I shall next beg leave to state to you the abuse in some particulars of the other part of the public authority which the Company acquired over the natives of India, in virtue of the royal charter of the present Mogul emperor, in the year 1766 [1765?].

My Lords, that you may the better judge of the abuse Mr. Hastings has made of the powers vested in him, it will be expedient to consider a little who the people are to whose prejudice he has abused these powers. I shall explain this point with as much brevity as is consistent with the distinctness with which I mean to bring the whole before your Lordships; and I beg to observe to you that this previous discourse, rather explanatory than accusatorial, (if I may use

the expression,) is meant rather to elucidate the nature of the matter to come before you in regular charges than as proof of the charges themselves.

I know that a good deal of latitude is allowed to advocates, when opening a cause in a private court, to indulge themselves in their narratives leading to the charges they intend to bring. They are not always called to the strictest account for such prefatory matter, because the court, when it comes to judge, sifts and distinguishes it from the points to be strictly proved, and on whose merits the cause relies. But I wish your Lordships to know, that, with the high opinion I have of your gravity, (and it is impossible for a man to conceive a higher,) and sensible of the weight of those I represent at this place, namely, the Commons of Great Britain, I should be sorry that any one substantial fact, even in this explanatory opening, or even the color of the fact, should be alleged, which, when called upon, I should not be ready to make good to you by proof, — I mean, by proof adapted to its nature: public opinion, by evidence of public opinion; by record, that to which record is applicable; by oral testimony, things to which oral testimony alone can be produced; and, last of all, that which is matter of historic proof, by historic evidence. This I hope to do with the usual allowance to errors and mistakes, which is the claim of human infirmity.

Then, my Lords, two distinct people inhabit India. Two sorts of people inhabit the same country, as totally distinct from each other, in characters, lives, opinions, prejudices, and manners, as the inhabitants of countries most remote from each other. For both of these descriptions Mr. Hastings was bound to pro-

vide equally, agreeable to the terms of the charter which the Company received from the lawful governing power of that country: a charter received at its own solicitation; a charter not forced upon us by a superior power, but given at the immediate solicitation of the principal servants belonging to the Company; a charter solemnly accepted by the Company, and by them, I am very sorry to say, little regarded, — or, at least, little regarded by their principal servants.

My Lords, the first description of people who are subjected virtually to the British empire through those mediums which I have described to you are the original inhabitants of Hindostan, who have in all time, and beyond all the eras which we use, (I mean always the two grand eras excepted,) been the aboriginal inhabitants and proprietors of that country, — with manners, religion, customs, and usages appropriated to themselves, and little resembling those of the rest of mankind. This description of men is commonly called Gentoos. The system and principle of that government is locality. Their laws, their manners, their religion are all local.

Their legislator, whoever he was, (for who he was is a matter lost in the mists of a most obscure antiquity,) had it as a great leading principle of his policy to connect the people with their soil. Accordingly, by one of those anomalies which a larger acquaintance with our species daily discovers, and which perhaps an attentive reflection might explain in the nature of man, this aboriginal people of India, — who are the softest in their manners of any of our race, approaching almost to feminine tenderness, — who are formed constitutionally benevolent, and, in

many particulars, made to fill a larger circle of benevolence than our morals take in,—who extend their good-will to the whole animal creation,— these people are, of all nations, the most unalliable to any other part of mankind. They cannot, the highest orders of them, at least, cannot, come into contact with any other. That bond which is one of the chief instruments of society, and which, supporting the individual, connects the species, can have no existence with them: I mean the convivial bond. That race can be held to no other by that great link of life. No Hindoo can mix at meals even with those on whom he depends for the meat he eats. This circumstance renders it difficult for us to enter with due sympathy into their concerns, or for them to enter into ours, even when we meet on the same ground. But there are other circumstances which render our intercourse, in our mutual relation, very full of difficulty. The sea is between us. The mass of that element, which, by appearing to disconnect, unites mankind, is to them a forbidden road. It is a great gulf fixed between you and them, —not so much that elementary gulf, but that gulf which manners, opinions, and laws have radicated in the very nature of the people. None of their high castes, without great danger to his situation, religion, rank, and estimation, can ever pass the sea; and this forbids, forever, all direct communication between that country and this. That material and affecting circumstance, my Lords, makes it ten times more necessary, since they cannot come to us, to keep a strict eye upon all persons who go to them. It imposes upon us a stricter duty to guard with a firm and powerful vigilance those whose principles of conscience weaken their principles of self-defence. If we un-

dertake to govern the inhabitants of such a country, we must govern them upon their own principles and maxims, and not upon ours. We must not think to force them into the narrow circle of our ideas; we must extend ours to take in their system of opinions and rites, and the necessities which result from both: all change on their part is absolutely impracticable. We have more versatility of character and manners, and it is we who must conform. We know what the empire of opinion is in human nature. I had almost said that the law of opinion was human nature itself. It is, however, the strongest principle in the composition of the frame of the human mind; and more of the happiness and unhappiness of mankind resides in that inward principle than in all external circumstances put together. But if such is the empire of opinion even amongst us, it has a pure, unrestrained, complete, and despotic power amongst them. The variety of balanced opinions in our minds weakens the force of each: for in Europe, sometimes, the laws of religion differ from the laws of the land; sometimes the laws of the land differ from our laws of honor; our laws of honor are full of caprice, differing from those other laws, and sometimes differing from themselves: but there the laws of religion, the laws of the land, and the laws of honor are all united and consolidated in one invariable system, and bind men by eternal and indissoluble bonds to the rules of what, amongst them, is called his *caste*.

It may be necessary just to state to your Lordships what a *caste* is. The Gentoo people, from the oldest time, have been distributed into various orders, all of them hereditary: these family orders are called castes; these castes are the fundamental part of the

constitution of the Gentoo commonwealth, both in their church and in their state.

Your Lordships are born to hereditary honors in the chief of your houses; the rest mix with the people. With the Gentoos, they who are born noble can never fall into any second rank. They are divided into four orders,—the Brahmins, the Chittery, the Bice, and the Soodur, with many subdivisions in each. An eternal barrier is placed between them. The higher cannot pass into the lower; the lower cannot rise into the higher. They have all their appropriated rank, place, and situation, and their appropriated religion too, which is essentially different in its rites and ceremonies, sometimes in its object, in each of those castes. A man who is born in the highest caste, which at once unites what would be tantamount in this country to the dignity of the peerage and the ennobled sanctity of the episcopal character,—the Brahmin, who sustains these characters, if he loses his caste, does not fall into an inferior order, the Chittery, the Bice, or the Soodur, but he is thrown at once out of all ranks of society. He is precipitated from the proudest elevation of respect and honor to a bottomless abyss of contempt,—from glory to infamy,—from purity to pollution,—from sanctity to profanation. No honest occupation is open to him; his children are no longer his children; their parent loses that name; the conjugal bond is dissolved. Few survive this most terrible of all calamities. To speak to an Indian of his caste is to speak to him of his all.

But the rule of caste has, with them, given one power more to fortune than the manners of any other nation were ever known to do. For it is singular, the caste may be lost, not only by certain voluntary

crimes, but by certain involuntary sufferings, disgraces, and pollutions, that are utterly out of their power to prevent. Those who have patiently submitted to imprisonment, — those who have not flinched from the scourge, — those who have been as unmoved as marble under torture, — those who have laughed at the menaces of death itself, — have instantly given way, when it has been attempted to subject them to any of those pollutions by which they lose caste. To this caste they are bound by all laws of all descriptions, human and divine; and inveterate usage has radicated it in them to a depth and with an adhesion with which no other known prejudice has been known to exist. Tyranny is therefore armed against them with a greater variety of weapons than are found in its ordinary stores.

This, amongst a thousand other considerations, speaks to us in very authoritative language with what care and circumspection we ought to handle people so delicate. In the course of this trial your Lordships will see with horror the use which Mr. Hastings made, through several of his wicked and abominable instruments, chosen from the natives themselves, of these superadded means of oppression. I shall prove, in the course of this trial, that he has put his own menial domestic servant, — a wretch totally dependent, — a wretch grossly ignorant, — the common instrument of his bribery and peculation, — he has enthroned him, I say, on the first seat of ecclesiastical jurisdiction, which was to decide upon the castes of all those people, including their rank, their family, their honor, and their happiness here, and, in their judgment, their salvation hereafter. Under the awe of this power, no man dared to breathe

a murmur against his tyranny. Fortified in this security, he says, "Who complains of me?" — "No, none of us dare complain of you," says the trembling Gentoo. "No! your menial servant has my caste in his power." — I shall not trouble your Lordships with mentioning others; it was enough that Cantoo Baboo, and Ginga Govind Sing, names to which your Lordships are to be familiarized hereafter, — it is enough that those persons had the caste and character of all the people of Bengal in their hands. Through them he has taken effectual security against all complaint. Your Lordships will hence discern how very necessary it is become that some other personage should intervene, should take upon him their representation, and by his freedom and his power should supply the defects arising from their servitude and their impotence. The Commons of Great Britain charge themselves with this character.

My Lords, these Gentoo people are the original people of Hindostan. They are still, beyond comparison, the most numerous. Faults this nation may have; but God forbid we should pass judgment upon people who framed their laws and institutions prior to our insect origin of yesterday! With all the faults of their nature and errors of their institutions, their institutions, which act so powerfully on their natures, have two material characteristics which entitle them to respect: first, great force and stability; and next, excellent moral and civil effects.

Their stability has been proved by their holding on an uniform tenor for a duration commensurate to all the empires with which history has made us acquainted; and they still exist in a green old age, with all the reverence of antiquity, and with all the passion

that people have to novelty and change. They have stood firm on their ancient base; they have cast their roots deep in their native soil, — perhaps because they have never spread them anywhere else than in their native soil. Their blood, their opinions, and the soil of their country make one consistent piece, admitting no mixture, no adulteration, no improvement: accordingly, their religion has made no converts, their dominion has made no conquests; but in proportion as their laws and opinions were concentred within themselves, and hindered from spreading abroad, they have doubled their force at home. They have existed in spite of Mahomedan and Portuguese bigotry, — in spite of Tartarian and Arabian tyranny, — in spite of all the fury of successive foreign conquest, — in spite of a more formidable foe, the avarice of the English dominion.

I have spoken now, my Lords, of what their principles are, their laws and religious institutions, in point of force and stability; I have given instances of their force in the very circumstance in which all the institutions of mankind in other respects show their weakness. They have existed, when the country has been otherwise subdued. This alone furnishes full proof that there must be some powerful influence resulting from them beyond all our little fashionable theories upon such subjects.

The second consideration in the Gentoo institutions is their beneficial effects, moral and civil. The policy, civil or religious, or, as theirs is, composed of both, that makes a people happy and a state flourishing, (putting further and higher considerations out of the way, which are not now before us,) must undoubtedly, so far as human considerations prevail, be a pol-

icy wisely conceived in any scheme of government. It is confirmed by all observation, that, where the Hindoo religion has been established, that country has been flourishing. We have seen some patterns remaining to this day. The very country which is to be the subject of your Lordships' judicial inquiry is an instance, by an entire change of government, of the different effects resulting from the rapacity of a foreign hand, and the paternal, lenient, protecting arm of a native government, formed on the long connection of prejudice and power. I shall give you its state under the Hindoo government from a book written by a very old servant of the Company, whose authority is of the greater weight, as the very destruction of all this scheme of government is the great object of the author.

The author, Mr. Holwell, divides the country of Bengal into its different provinces. He supposes what they then paid to the supreme government; he supposes what the country is capable of yielding; and his project is, to change entirely the application of the revenues of the country, and to secure the whole into the hands of government. In enumerating these provinces, at last he comes to the province of Burdwan.

"In truth," (says this author,) "it would be almost cruelty to molest this happy people; for in this district are the only vestiges of the beauty, purity, piety, regularity, equity, and strictness of the ancient Hindostan government. Here the property as well as the liberty of the people are inviolate. Here no robberies are heard of, either public or private. The traveller, either with or without merchandise, becomes the immediate care of the government, which

allots him guards, without any expense, to conduct him from stage to stage; and these are accountable for the safety and accommodation of his person and effects. At the end of the first stage he is delivered over, with certain benevolent formalities, to the guards of the next, who, after interrogating the traveller as to the usage he had received in his journey, dismiss the first guard with a written certificate of their behavior, and a receipt for the traveller and his effects; which certificate and receipt are returnable to the commanding officer of the first stage, who registers the same, and regularly reports it to the rajah.

"In this form the traveller is passed through the country; and if he only passes, he is not suffered to be at any expense for food, accommodation, or carriage for his merchandise or baggage: but it is otherwise, if he is permitted to make any residence in one place above three days, unless occasioned by sickness, or any unavoidable accident. If anything is lost in this district, — for instance, a bag of money or other valuables, — the person who finds it hangs it upon the next tree, and gives notice to the nearest *chowkey*, or place of guard, the officer of which orders immediate publication of the same by beat of *tomtom*, or drum."

These, my Lords, are the effects universally produced by the Hindoo polity throughout that vast region, before it was distorted and put out of frame by the barbarism of foreign conquests. Some choice, reserved spots continued to flourish under it to the year 1756. Some remained till Mr. Hastings obtained the means of utterly defacing them. Such was the prospect of Benares under the happy government of

Bulwant Sing. Such was the happy state of the same Benares in the happy days of Cheyt Sing, until, in the year 1781, Mr. Hastings introduced *his* reform into that country.

Having stated the general outline of the manners of the original people of Hindostan, having stated the general principles of their policy, which either prohibit connection, or oblige us to a connection very different from what we have hitherto used towards them, I shall leave it to your Lordships' judgment whether you will suffer such fair monuments of wisdom and benevolence to be defaced by the rapacity of your governors. I hope I have not gone out of my way to bring before you any circumstance relative to the Gentoo religion and manners, further than as they relate to the spirit of our government over them; for though there never was such food for the curiosity of the human mind as is found in the manners of this people, I pass it totally over.

I wish to divide this preliminary view into six periods; and your Lordships will consider that of the Hindoos, which I have now mentioned, as the first era.

The second era is an era of great misfortune to that country, and to the world in general: I mean, the time of the prophet Mahomed. The enthusiasm which animated his first followers, the despotic power which religion obtained through that enthusiasm, and the advantages derived from both over the enervated great empires, and broken, disunited, lesser governments of the world, extended the influence of that proud and domineering sect from the banks of the Ganges to the banks of the Loire.

This second period is the era of the Arabs. These people made a great and lasting impression on India. They established, very early, Mahomedan sovereigns in all parts of it, particularly in the kingdom of Bengal, which is the principal object of our present inquiry. They held that kingdom for a long series of years, under a dynasty of thirty-three kings, — having begun their conquest and founded their dominion in Bengal not very long after the time of their prophet.

These people, when they first settled in India, attempted, with the ferocious arm of their prophetic sword, to change the religion and manners of that country; but at length perceiving that their cruelty wearied out itself, and never could touch the constancy of the sufferers, they permitted the native people of the country to remain in quiet, and left the Mahomedan religion to operate upon them as it could, by appealing to the ambition or avarice of the great, or by taking the lower people, who had lost their castes, into this new sect, and thus, from the refuse of the Gentoo, increasing the bounds of the Mahomedan religion. They left many of the ancient rajahs of the country possessed of an inferior sovereignty; and where the strength of the country, or other circumstances, would not permit this subordination, they suffered them to continue in a separate state, approaching to independence, if not wholly independent.

The Mahomedans, during the period of the Arabs, never expelled or destroyed the native Gentoo nobility, zemindars, or landholders of the country. They all, or almost all, remained fixed in their places, properties, and dignities; and the shadows of several of them remain under our jurisdiction.

The next, which is the third era, is an era the more necessary to observe upon, because Mr. Hastings has made many applications to it in his defence before the Commons: namely, the invasion of the Tartars, or the era of Tamerlane. These Tartars did not establish themselves on the ruins of the Hindoos. Their conquests were over the other Mahomedans: for Tamerlane invaded Hindostan, as he invaded other countries, in the character of the great reformer of the Mahomedan religion. He came as a sort of successor to the rights of the Prophet, upon a divine title. He struck at all the Mahomedan princes who reigned at that time. He considered them as apostates, or at least as degenerated from the faith, and as tyrants abusing their power. To facilitate his conquests over these, he was often obliged to come to a sort of a composition with the people of the country he invaded. Tamerlane had neither time nor means nor inclination to dispossess the ancient rajahs of the country.

Your Lordships will observe that I propose nothing more than to give you an idea of the principles of policy which prevailed in these several revolutions, and not an history of the furious military achievements of a barbarous invader. Historians, indeed, are generally very liberal of their information concerning everything but what we ought to be very anxious to know. They tell us that India was conquered by Tamerlane, and conquered in such a year. The year will be found to coincide somewhere, I believe, with the end of the fourteenth century. Thinking the mere fact as of little moment, and its chronology as nothing, but thinking the policy very material, which, indeed, is to be

collected only here and there, in various books written with various views, I shall beg leave to lay before you a very remarkable circumstance relative to that policy, and taken from the same book to which I formerly referred, Mr. Holwell's.

"When the Hindoo rajahs, or princes of Hindostan, submitted to Tamerlane, it was on these capital stipulations: that the emperor should marry a daughter of Rajah Cheyt Sing's house; that the head of this house should be in perpetuity governors of the citadel of Agra, and anoint the king at his coronation; and that the emperors should never impose the *jessera* (or poll-tax) upon the Hindoos."

Here was a conqueror, as he is called, coming in upon terms; mixing his blood with that of the native nobility of the country he conquered, and, in consequence of this mixture, placing them in succession upon the throne of the country he subdued; making one of them even hereditary constable of the capital of his kingdom, and thereby putting his posterity as a pledge into their hands. What is full as remarkable, he freed the Hindoos forever from that tax which the Mahomedans have laid upon every country over which the sword of Mahomet prevailed, — namely, a capitation tax upon all who do not profess the religion of the Mahomedans. But the Hindoos, by express charter, were exempted from that mark of servitude, and thereby declared not to be a conquered people. The native princes, in all their transactions with the Mogul government, carried the evident marks of this free condition in a noble independency of spirit. Within their own districts the authority of many of them seemed entire. We are often led into mistakes concerning

the government of Hindostan, by comparing it with those governments where the prince is armed with a full, speculative, entire authority, and where the great people have, with great titles, no privileges at all, or, having privileges, have those privileges only as subjects. But in Hindostan the modes, the degrees, the circumstances of subjection varied infinitely. In some places hardly a trace at all of subjection was to be discerned; in some the rajahs were almost assessors of the throne, as in this case of the Rajah Cheyt Sing. These circumstances mark, that Tamerlane, however he may be indicated by the odious names of Tartar and Conqueror, was no barbarian; that the people who submitted to him did not submit with the abject submission of slaves to the sword of a conqueror, but admitted a great supreme emperor, who was just, prudent, and politic, instead of the ferocious, oppressive, lesser Mahomedan sovereigns, who had before forced their way by the sword into the country.

That country resembled more a republic of princes with a great chief at their head than a territory in absolute, uniform, systematic subjection from one end to the other, — in which light Mr. Hastings and others of late have thought proper to consider it. According to them, if a subordinate prince, like Cheyt Sing, was not ready to pay any exorbitant sum on instant demand, or submit to any extent of fine which should be inflicted upon him by the mere will of the person who called *robbery* a *fine*, and who took the measure of that fine without either considering the means of paying or the degree of delinquency that justified it, their properties, liberties, and lives were instantly forfeited. The rajahs of that country were

armed; they had fortresses for their security; they had troops. In the receipt of both their own and the imperial revenue, their securities for justice were in their own hands: but the policy of the Mogul princes very rarely led them to push that people to such extremity as it is supposed that on every slight occasion we have a right to push those who are the subjects of our pretended conquest.

Mr. Holwell throws much light on this policy, which became the standing law of the empire.

In the unfortunate wars which followed the death of Mauz-o-Din, "Sevajee Cheyt Sing," (the great rajah we have just mentioned,) "with a select body of Rajpoots, by a well-conducted retreat recovered Agra, and was soon after reconciled to the king [the Mogul] and admitted to his favor, — conformable to the steady policy of this government, in keeping a good understanding with the principal rajahs, and more especially with the head of this house, who is ever capable of raising and fomenting a very formidable party upon any intended revolution in this despotic and precarious monarchy."

You see that it was the monarchy that was precarious, not the rights of the subordinate chiefs. Your Lordships see, that, notwithstanding our ideas of Oriental despotism, under the successors of Tamerlane, these principal rajahs, instead of being called wretches, and treated as such, as Mr. Hastings has thought it becoming to call and treat them, when they were in arms against their sovereign, were regarded with respect, and were admitted to easy reconciliations; because, in reality, in their occasional hostilities, they were not properly rebellious subjects, but princes often asserting their natural rights and the just constitution of the country.

This view of the policy which prevailed during the dynasty of Tamerlane naturally conducts me to the next, which is the fourth era in this history: I mean the era of the Emperor Akbar. He was the first of the successors of Tamerlane who obtained possession of Bengal. It is easy to show of what nature his conquest was. It was over the last Mahomedan dynasty. He, too, like his predecessor, Tamerlane, conquered the prince, not the country. It is a certain mark that it was not a conquered country in the sense in which we commonly call a country conquered, that the natives, great men and landholders, continued in every part in the possession of their estates, and of the jurisdictions annexed to them. It is true, that, in the several wars for the succession to the Mogul empire, and in other of their internal wars, severe revenges were taken, which bore resemblance to those taken in the wars of the Roses in this country, where it was the common course, in the heat of blood, — "Off with his head! — so much for Buckingham!" Yet, where the country again recovered its form and settlement, it recovered the spirit of a mild government. Whatever rigor was used with regard to the Mahomedan adventurers from Persia, Turkey, and other parts, who filled the places of servile grandeur in the Mogul court, the Hindoos were a favored, protected, gently treated people.

The next, which is the fifth era, is a troubled and vexatious period, — the era of the independent Subahs of Bengal. Five of these subahs, or viceroys, governed from about the year 1717, or thereabouts. They grew into independence partly by the calamities and concussions of that empire, which happened during the disputes for the succession of Tamerlane,

and partly, and indeed principally, by the great shock which the empire received when Thamas Kouli Khân broke into that country, carried off its revenues, overturned the throne, and massacred not only many of the chief nobility, but almost all the inhabitants of the capital city. This rude shock, which that empire was never able to recover, enabled the viceroys to become independent; but their independence led to their ruin. Those who had usurped upon their masters had servants who usurped upon them. Aliverdy Khân murdered his master, and opened a way into Bengal for a body of foreign invaders, the Mahrattas, who cruelly harassed the country for several years. Their retreat was at length purchased, and by a sum which is supposed to amount to five millions sterling. By this purchase he secured the exhausted remains of an exhausted kingdom, and left it to his grandson, Surajah Dowlah, in peace and poverty. On the fall of Surajah Dowlah, in 1756, commenced the last, which is the sixth, — the era of the British empire.

On the fifth dynasty I have only to remark to your Lordships, that at its close the Hindoo chiefs were almost everywhere found in possession of the country; that, although Aliverdy Khân was a cruel tyrant, though he was an untitled usurper, though he racked and tormented the people under his government, urged, however, by an apparent necessity from an invading army of one hundred thousand horse in his dominions, — yet, under him, the rajahs still preserved their rank, their dignity, their castles, their houses, their seigniories, all the insignia of their situation, and always the right, sometimes also the means, of protecting their subordinate people, till the last and unfortunate era of 1756.

Through the whole of this sketch of history I wish to impress but one great and important truth upon your minds: namely, that, through all these revolutions in government and changes in power, an Hindoo polity, and the spirit of an Hindoo government, did more or less exist in that province with which he was concerned, until it was finally to be destroyed by Mr. Hastings.

My Lords, I have gone through all the eras precedent to those of the British power in India, and am come to the first of those eras. Mr. Hastings existed in India, and was a servant of the Company before that era, and had his education between both. He is an antediluvian with regard to the British dominion in Bengal. He was coexistent with all the acts and monuments of that revolution, and had no small share in all the abuses of that abusive period which preceded his actual government. But as it was during that transit from Eastern to Western power that most of the abuses had their origin, it will not be perfectly easy for your Lordships thoroughly to enter into the nature and circumstances of them without an explanation of the principal events that happened from the year 1756 until the commencement of Mr. Hastings's government, — during a good part of which time we do not often lose sight of him. If I find it agreeable to your Lordships, if I find that you wish to know these annals of Indian suffering and British delinquency, if you desire that I should unfold the series of the transactions from 1756 to the period of Mr. Hastings's government in 1771, that you may know how far he promoted what was good, how far he rectified what was evil, how far he abstained from innovation in

tyranny, and contented himself with the old stock of abuse, your Lordships will have the goodness to consult the strength which from late indisposition begins almost to fail me. And if you think the explanation is not time lost in this new world and in this new business, I shall venture to sketch out, as briefly and with as much perspicuity as I can give them, the leading events of that obscure and perplexed period which intervened between the British settlement in 1757 and Mr. Hastings's government. If I should be so happy as to succeed in that attempt, your Lordships' minds will be prepared for hearing this cause. Then your Lordships will have a clear view of the origin and nature of the abuses which prevailed in that government before Mr. Hastings obtained his greatest power, and since that time; and then we shall be able to enter fully and explicitly into the nature of the cause: and I should hope that it will pave the way and make everything easy for your subsequent justice.

I therefore wish to stop at this period, in which Mr. Hastings became active in the service, pretty near the time when he began his political career: and here, my Lords, I pause, wishing your indulgence at such time as will suit your convenience for pursuing the rest of this eventful history.

SPEECH

IN

OPENING THE IMPEACHMENT.

SECOND DAY: SATURDAY, FEBRUARY 16 1788.

MY LORDS,—In what I had the honor of laying before your Lordships yesterday, and in what I may further trouble you with to-day, I wish to observe a distinction, which if I did not lay down so perfectly as I ought, I hope I shall now be able to mark it out with sufficient exactness and perspicuity.

First, I beg leave to observe that what I shall think necessary to state, as matter of preliminary explanation, in order to give your Lordships a true idea of the scene of action, of the instruments which Mr Hastings employed, and the effects which they produced,—all this I wish to be distinguished from matter brought to criminate. Even the matter, as stated by me, which may be hereafter brought to criminate, so far as it falls to my share at present, is only to be considered, in this stage of the business as merely illustrative. Your Lordships are to expect as undoubtedly you will require, substantial matter of crimination to be laid open for that purpose at the moment when the evidence to each charge is ready to be produced to you. Thus your Lordships will easily separate historical illustration from criminal opening. For instance, if I stated yesterday to your Lordships as I did, the tyranny and cruelty of one of the usurp

ing viceroys, whose usurpation and whose vices led the way to the destruction of his country and the introduction of a foreign power, I do not mean to charge Mr. Hastings with any part of that guilt: what bears upon Mr. Hastings is his having avowedly looked to such a tyrant and such a usurper as his model, and followed that pernicious example with a servile fidelity. When I have endeavored to lay open to your Lordships anything abusive, or leading to abuse, from defects or errors in the constitution of the Company's service, I did not mean to criminate Mr. Hastings on any part of those defects and errors: I state them to show that he took advantage of the imperfections of the institution to let in his abuse of the power with which he was intrusted. If, for a further instance, I have stated that in general the service of the India Company was insufficient in legal pay or emolument and abundant in the means of illegal profit, I do not state that defect as owing to Mr. Hastings; but I state it as a fact, to show in what manner and on what pretences he did, fraudulently, corruptly, and for the purposes of his own ambition, take advantage of that defect, and, under color of reformation, make an illegal, partial, corrupt rise of emoluments to certain favored persons without regard to the interests of the service at large, — increasing rather than lessening the means of illicit emolument, as well as loading the Company with many heavy and ruinous expenses in avowed salaries and allowances.

Having requested your Lordships to keep in mind, which I trust you would do even without my taking the liberty of suggesting it to you, these necessary distinctions, I shall revert to the period at which I closed yesterday, that great and memorable period

which has remotely given occasion to the trial of this day.

My Lords, to obtain empire is common; to govern it well has been rare indeed. To chastise the guilt of those who have been instruments of imperial sway over other nations by the high superintending justice of the sovereign state has not many striking examples among any people. Hitherto we have not furnished our contingent to the records of honor. We have been confounded with the herd of conquerors. Our dominion has been a vulgar thing. But we begin to emerge; and I hope that a severe inspection of ourselves, a purification of our own offences, a lustration of the exorbitances of our own power, is a glory reserved to this time, to this nation, and to this august tribunal.

The year 1756 is a memorable era in the history of the world: it introduced a new nation from the remotest verge of the Western world, with new manners, new customs, new institutions, new opinions, new laws, into the heart of Asia.

My Lords, if, in that part of Asia whose native regular government was then broken up, — if, at the moment when it had fallen into darkness and confusion from having become the prey and almost the sport of the ambition of its home-born grandees, — if, in that gloomy season, a star had risen from the West, that would prognosticate a better generation, and would shed down the sweet influences of order, peace, science, and security to the natives of that vexed and harassed country, we should have been covered with genuine honor. It would have been a beautiful and noble spectacle to mankind.

Indeed, something might have been expected of the kind, when a new dominion emanated from a learned and enlightened part of the world in the most enlightened period of its existence. Still more might it have been expected, when that dominion was found to issue from the bosom of a free country, that it would have carried with it the full benefit of the vital principle of the British liberty and Constitution, though its municipal forms were not communicable, or at least the advantage of the liberty and spirit of the British Constitution. Had this been the case, (alas! it was not,) you would have been saved the trouble of this day. It might have been expected, too, that, in that enlightened state of the world, influenced by the best religion, and from an improved description of that best religion, (I mean the Christian reformed religion,) that we should have done honor to Europe, to letters, to laws, to religion, — done honor to all the circumstances of which in this island we boast ourselves, at the great and critical moment of that revolution.

My Lords, it has happened otherwise. It is now left for us to repair our former errors. Resuming the history where I broke off yesterday by your indulgence to my weakness, — Surajah Dowlah was the adopted grandson of Aliverdy Khân, a cruel and ferocious tyrant, the manner of whose acquisition of power I have already stated. He came too young and unexperienced to that throne of usurpation. It was a usurpation yet green in the country, and the country felt uneasy under it. It had not the advantage of that prescriptive usage, that inveterate habit, that traditionary opinion, which a long continuance of any system of government secures to it. The only

real security which Surajah Dowlah's government could possess was the security of an army. But the great aim of this prince and his predecessor was to supply the weakness of his government by the strength of his purse; he therefore amassed treasures by all ways and on all hands. But as the Indian princes, in general, are as unwisely tenacious of their treasure as they are rapacious in getting it, the more money he amassed, the more he felt the effects of poverty. The consequence was, that their armies were unpaid, and, being unpaid or irregularly paid, were undisciplined, disorderly, unfaithful. In this situation, a young prince, confiding more in the appearances than examining into the reality of things, undertook (from motives which the House of Commons, with all their industry to discover the circumstances, have found it difficult to make out) to attack a little miserable trading fort that we had erected at Calcutta. He succeeded in that attempt only because success in that attempt was easy. A close imprisonment of the whole settlement followed, — not owing, I believe, to the direct will of the prince, but, what will always happen when the will of the prince is but too much the law, to a gross abuse of his power by his lowest servants, — by which one hundred and twenty or more of our countrymen perished miserably in a dungeon, by a fate too tragical for me to be desirous to relate, and too well known to stand in need of it.

At the time that this event happened, there was at the same time a concurrence of other events, which, from this partial and momentary weakness, displayed the strength of Great Britain in Asia. For some years before, the French and English troops began, on the coast of Coromandel, to exhibit the power,

force, and efficacy of European discipline. As we daily looked for a war with France, our settlements on that coast were in some degree armed. Lord Pigot, then Governor of Madras, — Lord Pigot, the preserver and the victim of the British dominion in Asia, — detached such of the Company's force as could be collected and spared, and such of his Majesty's ships as were on that station, to the assistance of Calcutta. And — to hasten this history to its conclusion — the daring and commanding genius of Clive, the patient and firm ability of Watson, the treachery of Mir Jaffier, and the battle of Plassey gave us at once the patronage of a kingdom and the command of all its treasures. We negotiated with Mir Jaffier for the viceroyal throne of his master. On that throne we seated him. And we obtained, on our part, immense sums of money. We obtained a million sterling for the Company, upwards of a million for individuals, in the whole a sum of about two millions two hundred and thirty thousand pounds for various purposes, from the prince whom we had set up. We obtained, too, the town of Calcutta more completely than we had before possessed it, and the twenty-four districts adjoining. This was the first small seminal principle of the immense territorial acquisitions we have since made in India.

Many circumstances of this acquisition I pass by. There is a sacred veil to be drawn over the beginnings of all governments. Ours in India had an origin like those which time has sanctified by obscurity. Time, in the origin of most governments, has thrown this mysterious veil over them; prudence and discretion make it necessary to throw something of the same drapery over more recent foundations, in

which otherwise the fortune, the genius, the talen
and military virtue of this nation never shone mo
conspicuously. But whatever necessity might hi
or excuse or palliate, in the acquisition of power,
wise nation, when it has once made a revolution u
on its own principles and for its own ends, rests ther
The first step to empire is revolution, by which pow
is conferred; the next is good laws, good order, goo
institutions, to give that power stability. I am sor
to say that the reverse of this policy was the prin
ple on which the gentlemen in India acted. It w
such as tended to make the new government as u
stable as the old. By the vast sums of money a
quired by individuals upon this occasion, by the i
mense sudden prodigies of fortune, it was discover
that a revolution in Bengal was a mine much mo
easily worked and infinitely more productive th
the mines of Potosi and Mexico. It was found th
the work was not only very lucrative, but not at a
difficult. Where Clive forded a deep water upon a
unknown bottom, he left a bridge for his successo
over which the lame could hobble and the blin
might grope their way. There was not at that tin
a knot of clerks in a counting-house, there was n
a captain of a band of ragged *topasses*, that look
for anything less than the deposition of subahs a
the sale of kingdoms. Accordingly, this revolutio
which ought to have precluded other revolutions, u
fortunately became fruitful of them; and when Lo
Clive returned to Europe, to enjoy his fame and fo
tune in his own country, there arose another descri
tion of men, who thought that a revolution might
made upon his revolution, and as lucrative to the
as his was to the first projectors. Scarcely was M

Jaffier, Lord Clive's nabob, seated on his *musnud*, than they immediately, or in a short time, projected another revolution, a revolution which was to unsettle all the former had settled, a revolution to make way for new disturbances and new wars, and which led to that long chain of peculation which ever since has afflicted and oppressed Bengal.

If ever there was a time when Bengal should have had respite from internal revolutions, it was this. The governor forced upon the natives was now upon the throne. All the great lords of the country, both Gentoos and Mahomedans, were uneasy, discontented, and disobedient, and some absolutely in arms, and refusing to recognize the prince we had set up. An imminent invasion of the Mahrattas, an actual invasion headed by the son of the Mogul, the revenues on account of the late shock very ill collected even where the country was in some apparent quiet, an hungry treasury at Calcutta, an empty treasury at Moorshedabad, — everything demanded tranquillity, and with it order and economy. In this situation it was resolved to make a new and entirely mercenary revolution, and to set up to sale the government, secured to its present possessor by every tie of public faith and every sacred obligation which could bind or influence mankind. This second revolution forms that period in the Bengal history which had the most direct influence upon all the subsequent transactions. It introduces some of the persons who were most active in the succeeding scenes, and from that time to this has given its tone and character to the British affairs and government. It marks and specifies the origin and true principle of all the abuses which Mr. Hast-

ings was afterwards appointed to correct, and wh
the Commons charge that he continued and agg
vated: namely, the venal depositions and venal
altations of the country powers; the taking of bril
and corrupt presents from all parties in th
changes; the vitiating and maiming the Compan
records; the suppression of public correspondenc
corrupt combinations and conspiracies; perfidy
negotiation established into principle; acts of
most atrocious wickedness justified upon purity
intention; mock-trials and collusive acquittals amo
the parties in common guilt; and in the end,
Court of Directors supporting the scandalous brea
of their own orders. I shall state the particul
of this second revolution more at large.

Soon after the revolution which had seated M
Jaffier on the viceroyal throne, the spirit of t
Mogul empire began, as it were, to make one fai
struggle before it finally expired. The then h
to that throne, escaping from the hands of thc
who had held his father prisoner, had put hims
at the head of several chiefs collected under t
standard of his house, and appeared in force on t
frontiers of the provinces of Bengal and Bahar, up
both which he made some impression. This alar
ed the new powers, the Nabob Mir Jaffier, and t
Presidency of Calcutta; and as in a common cau
and by the terms of their mutual alliance, they to
the field against him. The Nabob's eldest son a
heir-apparent commanded in chief. Major Callia
commanded the English forces under the gove
ment of Calcutta. Mr. Holwell was in the tem
rary possession of the Presidency. Mr. Vansitt
was hourly expected to supersede him. Mr. Warr

Hastings, a young gentleman about twenty-seven years of age, was Resident for the Company at the durbar, or court, of Mir Jaffier, our new-created Nabob of Bengal, allied to this country by the most solemn treaties that can bind men; for which treaties he had paid, and was then paying, immense sums of money. Mr. Warren Hastings was the pledge in his hands for the honor of the British nation, and their fidelity to their engagements.

In this situation, Mr. Holwell, whom the terrible example of the Black Hole at Calcutta had not cured of ambition, thought an hour was not to be lost in accomplishing a revolution and selling the reigning Nabob.

My Lords, there was in the house of Mir Jaffier, in his court, and in his family, a man of an intriguing, crafty, subtle, and at the same time bold, daring, desperate, bloody, and ferocious character, called Cossim Ali Khân. He was the son-in-law of Mir Jaffier; and he made no other use of this affinity than to find some means to dethrone and to murder him. This was the person in whose school of politics Mr. Hastings made his first studies, and whose conduct he quotes as his example, and for whose friends, agents, and favorites he has always shown a marked predilection. This dangerous man was not long without finding persons who observed his talents with admiration, and who thought fit to employ him.

The Council at Calcutta was divided into two departments: one, the Council in general; the other a Select Committee, which they had arranged for the better carrying on their political affairs. But the Select Committee had no power of acting wholly without the Council at large, — at least, finally and con-

clusively. The Select Committee thought otherwi
Between these litigant parties for power I shall n
determine on the merits, — thinking of nothing b
the use that was made of the power, to whomsoev
it belonged. This Secret Committee, then, witho
communicating with the rest of the Council, form
the plan for a second revolution. But the concu
rence of Major Calliaud, who commanded the Briti
troops, was essential to the purpose, as it could n
be accomplished without force. Mr. Hastings's a
sistance was necessary, as it could not be accor
plished without treachery.

These are the parties concerned in the intend
revolution. Mr. Holwell, who considered himself
possession only of temporary power, was urged to pr
cipitate the business; for if Mr. Vansittart should a
rive before his plot could be finally put into exec
tion, he would have all the leading advantages of i
and Mr. Holwell would be considered only as a se
ondary instrument. But whilst Mr. Holwell, wh
originally conceived this plot, urged forward the ex
cution of it, in order that the chief share of the pro
its might fall to him, the Major, and possibly th
Resident, held back, till they might receive the san
tion of the permanent governor, who was hourly ex
pected, with whom one of them was connected, an
who was to carry with him the whole weight of th
authority of this kingdom. This difference produce
discussions. Holwell endeavored by his correspond
ence to stimulate Calliaud to this enterprise, whic
without him could not be undertaken at all. Bu
Major Calliaud had different views. He concurre
inwardly, as he tells us himself, in all the principle
of this intended revolution, in the propriety and n

cessity of it. He only wished delay. But he gave such powerful, solid, and satisfactory reasons, not against the delay, but the very merits of the design itself, exposing the injustice and the danger of it, and the impossibility of mending by it their condition in any respect, as must have damned it in the minds of all rational men: at least it ought to have damned it forever in his own. But you will see that Holwell persevered in his plan, and that Major Calliaud thought two things necessary: first, not wholly to destroy the scheme, which he tells us he always approved, but to postpone the execution, — and in the mean time to delude the Nabob by the most strong, direct, and sanguine assurances of friendship and protection that it was possible to give to man.

Whilst the projected revolution stood suspended, — whilst Mr. Holwell urged it forward, and Mr. Vansittart was expected every day to give it effect, — whilst Major Calliaud, with this design of ruining the Nabob lodged in his breast, suspended in execution, and condemned in principle, kept the fairest face and the most confidential interviews with that unfortunate prince and his son, — as the operations of the campaign relaxed, the army drew near to Moorshedabad, the capital, when a truly extraordinary scene happened, such I am sure the English annals before that time had furnished no example of, nor will, I trust, in future. I shall state it as one piece from beginning to end, reserving the events which intervened; because, as I do not produce any part of this series for the gratification of historical curiosity, the contexture is necessary to demonstrate to your Lordships the spirit of our Bengal politics, and the necessity of some other sort of judicial inquiries than those which

that government institute for themselves. The transaction so manifestly marks the character of the whole proceeding that I hope I shall not be blamed for suspending for a moment the narrative of the steps taken towards the revolution, that you may see the whole of this episode together, — that by it you may judge of the causes which led progressively to the state in which the Company's affairs stood, when Mr Hastings was sent for the express purpose of reforming it.

The business I am going to enter into is commonly known by the name of the Story of the Three Seals. It is to be found in the Appendix, No. 10, to the First Report of the state and condition of the East India Company, made in 1773. The word *Report*, my Lords, is sometimes a little equivocal, and may signify sometimes, not what is made known, but what remains in obscurity: the detail and evidence of many facts referred to in the Report being usually thrown into the Appendix. Many people, and I among the rest, (I take shame to myself for it,) may not have fully examined that Appendix. I was not a member of either of the India committees of 1773. It is not, indeed, till within this year that I have been thoroughly acquainted with that memorable history of the Three Seals.

The history is this. In the year 1760 the allies were in the course of operations against the son of the Mogul, now the present Mogul, who, as I have already stated, had made an irruption into the kingdom of Bahar, in order to reduce the lower provinces to his obedience. The parties opposing him were the Nabob of Bengal and the Company's troops under Major Calliaud. It was whilst they

faced the common enemy as one body, this negotiation for the destruction of the Nabob of Bengal by his faithful allies of the Company was going on with diligence. At that time the Nabob's son, Meeran, a youth in the flower of his age, bold, vigorous, active, full of the politics in which those who are versed in usurpation are never wanting, commanded the army under his father, but was in reality the efficient person in all things.

About the 15th of April, 1760, as I have it from Major Calliaud's letter of that date, the Nabob came into his tent, and, with looks of the utmost embarrassment, big with some design which swelled his bosom, something that was too large and burdensome to conceal, and yet too critical to be told, appeared to be in a state of great distraction. The Major, seeing him in this condition, kindly, gently, like a fast and sure friend, employed (to use his own expression) *some of those assurances that tend to make men fully open their hearts;* and accordingly, fortified by his assurances, and willing to disburden himself of the secret that oppressed him, he opens his heart to the commanding officer of his new friends, allies, and protectors. The Nabob, thus assured, did open himself, and informed Major Calliaud that he had just received a message from the Prince, or his principal minister, informing him that the Prince Royal, now the Mogul, had an intention (as, indeed, he rationally might, supposing that we were as well disposed to him as we showed ourselves afterwards) to surrender himself into the hands of him, the Nabob, but at the same time wished, as a guaranty, that the commander-in-chief of the English forces should give him security for his life and his honor, when he should in

that manner surrender himself to the Nabob. I do not mean, my Lords, by surrendering, that it was supposed he intended to surrender himself prisoner of war, but as a sovereign dubious of the fidelity of those about him would put himself into the hands of his faithful subjects, of those who claimed to derive all their power, as both we and the Nabob did, under his authority. The Nabob stated to the English general, that without this English security the Prince would not deliver himself into his hands. Here he confessed he found a difficulty. For the giving this faith, if it were kept, would defeat his ultimate view, which was, when the Prince had delivered himself into his hands, in plain terms to murder him. This grand act could not be accomplished without the English general. In the first place, the Prince, without the English security, would not deliver himself into the Nabob's hands; and afterwards, without the English concurrence, he could not be murdered. These were difficulties that pressed upon the mind of the Nabob.

The English commander heard this astonishing proposition without any apparent emotion. Being a man habituated to great affairs, versed in revolutions, and with a mind fortified against extraordinary events, he heard it and answered it without showing any signs of abhorrence or detestation, — at the same time with a protestation that he would indeed serve him, the Nabob, but it should be upon such terms as honor and justice could support: informing him, that an assurance for the Prince's safety could not be given by him, until he had consulted Mr. Holwell, who was Governor, and his superior.

This conversation passed in the morning. On that

very morning, and whilst the transaction was hot, Major Calliaud writes to Mr. Holwell an account of it. In his letter he informs him that he made an inquiry, without stating from whom, but that he did inquire the probability of the Nabob's getting possession of the Prince from some persons, who assured him that there was no probability of the Prince's intention to deliver himself to the Nabob on any terms. Be that as it may, it is impossible not to remark that the whole transaction of the morning of the 15th of April was not very discouraging to the Nabob, — not such as would induce him to consider this most detestable of all projects as a thing utterly unfeasible, and as such to abandon it. The evening came on without anything to alter his opinion. Major Calliaud that evening came to the Nabob's tent to arrange some matters relative to the approaching campaign. The business soon ended with regard to the campaign; but the proposal of the morning to Major Calliaud, as might be expected to happen, was in effect renewed. Indeed, the form was a little different; but the substantial part remained the same. Your Lordships will see what these alterations were.

In the evening scene the persons were more numerous. On the part of the Company, Major Calliaud, Mr. Lushington, Mr. Knox, and the ambassador at the Nabob's court, Mr. Warren Hastings. On the part of the Moorish government, the Nabob himself, his son Meeran, a Persian secretary, and the Nabob's head spy, an officer well known in that part of the world, and of some rank. These were the persons of the drama in the evening scene. The Nabob and his son did not wait for the Prince's committing himself to their faith, which, it seems, Major Calliaud

did not think likely to happen; so that one act of treachery is saved: but another opened of as extraordinary a nature. Intent and eager on the execution, and the more certain, of their design, they accepted the plan of a wicked wretch, principal servant of the then prime-minister to the Mogul, or themselves suggested it to him. A person called Conery, dewan or principal steward to Camgar Khân, a great chief in the service of the Shahzada, or Prince, (now the Great Mogul, the sovereign under whom the Company holds their charter,) had, it seems, made a proposal to the Nabob, that, if a considerable territory then held by his master was assured to him, and a reward of a lac of rupees (ten or twelve thousand pounds) secured to him, he would for that consideration deliver the Prince, the eldest son of the Mogul, alive into the hands of the Nabob; or if that could not be effected, he engaged to murder him for the same reward. But as the assassin could not rely on the Nabob and his son for his reward for this meritorious action, and thought better of English honor and fidelity in such delicate cases, he required that Major Calliaud should set his seal to the agreement. This proposition was made to an English commander: what discourse happened upon it is uncertain. Mr. Hastings is stated by some evidence to have acted as interpreter in this memorable congress. But Major Calliaud agreed to it without any difficulty. Accordingly, an instrument was drawn, an indenture tripartite prepared by the Persian secretary, securing to the party the reward of this infamous, perfidious, murderous act. First, the Nabob put his own seal to the murder. The Nabob's son, Meeran, affixed *his* seal. A third seal,

the most important of all, was yet wanting. A pause ensued: Major Calliaud's seal was not at hand; but Mr. Lushington was sent near half a mile to bring it. It was brought at length; and the instrument of blood and treachery was completely executed. Three seals were set to it.

This business of the three seals, by some means not quite fully explained, but (as suspected by the parties) by means of the information of Mr. Holwell, who soon after came home, was conveyed to the ears of the Court of Directors. The Court of Directors wrote out, under date of the 7th of October, 1761, within a little more than a year after this extraordinary transaction, to this effect: — that, in conjunction with the Nabob, Major Calliaud had signed a paper offering a reward of a lac of rupees, or some such sum, to several black persons, for the assassination of the Shahzada, or Prince heir-apparent, — which paper was offered to the then Chief of Patna to sign, but which he refused on account of the infamy of the measure. As it appeared in the same light to them, the Directors, they ordered a strict inquiry into it. The India Company, who here did their duty with apparent manliness and vigor, were resolved, however, to do it with gentleness, and to proceed in a manner that could not produce any serious mischief to the parties charged; for they directed the commission of inquiry to the very clan and set of people who, from a participation in their common offences, stood in awe of one another, — in effect, to the parties in the transaction. Without a prosecutor, without an impartial director of the inquiry, they left it substantially to those persons to try one another for their common acts.

Here I come upon the principle which I wish most

strongly to mark to your Lordships: I mean collusive trials and collusive acquittals. When this matter came to be examined, according to the orders of the Court, which was on the 4th of October, 1762, the Council consisted of Peter Maguire, Warren Hastings, and Hugh Watts. Mr. Hastings had by this time accomplished the business of Resident with the Nabob, and had taken the seat to which his seniority entitled him in Council. Here a difficulty arose *in limine*. Mr. Hastings was represented to have acted as interpreter in this business; he was therefore himself an object of the inquisition; he was doubtful as evidence; he was disqualified as a judge. It likewise appeared that there might be some objection to others whose evidence was wanting, but who were themselves concerned in the guilt. Mr. Lushington's evidence would be useful, but there were two circumstances rather unlucky. First, he had put the seal to the instrument of murder; and, secondly, and what was most material, he had made an affidavit at Patna, whilst the affair was green and recent, that he had done so; and in the same affidavit had deposed that Warren Hastings was interpreter in that transaction. Here were difficulties both on him and Mr. Hastings. The question was, how to get Mr. Hastings, the interpreter, out of his interpretation, and to put him upon the seat of judgment. It was effected, however, and the manner in which it was effected was something curious. Mr. Lushington, who by this time was got completely over, himself tells you that in conferences with Major Calliaud, and by arguments and reasons by him delivered, he was persuaded to unsay his swearing, and to declare that he believed that the affidavit which he made at Patna, and while the

transaction was recent or nearly recent, must be a mistake: that he *believed* (what is amazing indeed for any belief) that not Mr. Hastings, but he himself, interpreted. Mr. Lushington completely loses his own memory, and he accepts an offered, a given memory, a memory supplied to him by a party in the transaction. By this operation all difficulties are removed: Mr. Hastings is at once put into the capacity of a judge. He is declared by Mr. Lushington not to have been an interpreter in the transaction. After this, Mr. Hastings is himself examined. Your Lordships will look at the transaction at your leisure, and I think you will consider it as a pattern for inquiries of this kind. Mr. Hastings is examined: he does not recollect. His memory also fails on a business in which it is not easy to suppose a man could be doubtful, — whether he was present or not: he thinks he was not there, — for that, if he had been there, and acted as interpreter, he could not have forgot it.

I think it is pretty nearly as I state it: if I have fallen into any error or inaccuracy, it is easily rectified; for here is the state of the transaction given by the parties themselves. On this inaccurate memory of Mr. Hastings, not venturing, however, to say positively that he was not the interpreter, or that he was not present, he is discharged from being an accomplice, — he is removed from the bar, and leaps upon the seat of justice. The court thus completed, Major Calliaud comes manfully forward to make his defence. Mr. Lushington is taken off his back in the manner we have seen, and no one person remains but Captain Knox. Now, if Captain Knox was there and assenting, he is an accomplice too. Captain Knox asserts, that, at the consultation about the murder, he

said it was a pity to cut off so fine a young fellow in such a manner, — meaning that fine young fellow the Prince, the descendant of Tamerlane, the present reigning Mogul, from whom the Company derive their present charter. The purpose to be served by this declaration, if it had any purpose, was, that Captain Knox did not assent to the murder, and that therefore his evidence might be valid.

The defence set up by Major Calliaud was to this effect. He was apprehensive, he said, that the Nabob was alarmed at the violent designs that were formed against him by Mr. Holwell, and that therefore, to quiet his mind, (to quiet it by a proposition compounded of murder and treason, — an odd kind of mind he had that was to be quieted by such means!) — but to quiet his mind, and to show that the English were willing to go all lengths with him, to sell body and soul to him, he did put his seal to this extraordinary agreement, he put his seal to this wonderful paper. He likewise stated, that he was of opinion at the time that nothing at all sinister could happen from it, that no such murder was likely to take place, whatever might be the intention of the parties. In fact, he had very luckily said in a letter of his, written a day after the setting the seal, "I think nothing will come of this matter, but it is no harm to try." This experimental treachery, and these essays of conditional murder, appeared to him good enough to make a trial of; but at the same time he was afraid nothing would come of it. In general, the whole gest of his defence comes to one point, in which he persists, — that, whatever the act might be, his mind is clear: "My hands are guilty, but my heart is free." He conceived that it would be very

improper, undoubtedly, to do such an act, if he suspected anything could happen from it: he, however, let the thing out of his own hands; he put it into the hands of others; he put the commission into the hands of a murderer. The fact was not denied; it was fully before these severe judges. The extenuation was the purity of his heart, and the bad situation of the Company's affairs, — the perpetual plea, which your Lordships will hear of forever, and which if it will justify evil actions, they will take good care that the most nefarious of their deeds shall never want a sufficient justification. But then he calls upon his life and his character to oppose to his seal; and though he has declared that Mr. Holwell had intended ill to the Nabob, and that he approved of those measures, and only postponed them, yet he thought it necessary, he says, to quiet the fears of the Nabob; and from this motive he did an act abhorrent to his nature, and which, he says, he expressed his abhorrence of the morning after he signed it: not that he did so; but if he had, I believe it would only have made the thing so many degrees worse. Your Lordships will observe, that, in this conference, as stated by himself, these reasons and apologies for it did not appear, nor did they appear in the letter, nor anywhere else, till next year, when he came upon his trial. Then it was immediately recollected that Mr. Holwell's designs were so wicked they certainly must be known to the Nabob, though he never mentioned them in the conference of the morning or the evening of the 15th; yet such was now the weight and prevalence of them upon the Major's mind, that he calls upon Mr. Hastings to know whether the Nabob was not informed of these designs of Mr. Holwell against him. Mr. Hastings's

memory was not quite correct upon the occasion. He does not recollect anything of the matter. He certainly seems not to think that he ever mentioned it to the Nabob, or the Nabob to him; but he does recollect, he thinks, speaking something to some of the Nabob's attendants upon it, and further this deponent sayeth not. On this state of things, namely, the purity of intention, the necessities of the Company, the propriety of keeping the Nabob in perfect good-humor and removing suspicions from his mind, which suspicions he had never expressed, they came to the resolution I shall have the honor to read to you: "That the representation, given in the said defence, of the state of the affairs of the country at that time" (that is, about the month of April, 1760) "is true and just" (that is, the bad state of the country, which we shall consider hereafter); "that, in such circumstances, the Nabob's urgent account of his own distresses, the Colonel's desire of making him easy," (for here is a recapitulation of the whole defence,) "as the first thing necessary for the good of the service, and the suddenness of the thing proposed, might deprive him for a moment of his recollection, and surprise him into a measure which, as to the measure itself, he could not approve. That such only were the motives which did or could influence Colonel Calliaud to assent to the proposal is fully evinced by the deposition of Captain Knox and Mr. Lushington, that *his* [*Calliaud's*] *conscience, at the time, never reproached him with a bad design.*"

Your Lordships have heard of the testimony of a person to his own conscience; but the testimony of another man to any one's conscience — this is the first time, I believe, it ever appeared in a judicial proceed-

ing. It is natural to say, "My conscience acquits me of it"; but *they* declare, that "*his* conscience never reproached him with a bad design, and therefore, upon the whole, they are satisfied that his intention was good, though he erred in the measure."

I beg leave to state one thing that escaped me: that the Nabob, who was one of the parties to the design, was, at the time of the inquiry, a sort of prisoner or an exile at Calcutta; that his *moonshee* was there, or might have been had; and that his spy was likewise there; and that they, though parties to this transaction, were never called to account for it in any sense or in any degree, or to show how far it was *necessary* to quiet the Nabob's mind.

The accomplices, by acquitting him upon *their* testimony to *his conscience*, did their business nobly. But the good Court of Directors, who were so easily satisfied, so ready to condemn at the first proposition and so ready afterwards to acquit, put the last finishing hand of a master to it. For the accomplices acquit him of evil intentions and excuse his act. The Court of Directors, disapproving indeed the measure, but receiving the testimony of his conscience in justification of his conduct, and taking up the whole ground, honorably acquit him, and commend this action as an instance of heroic zeal in their service.

The great end and purpose for which I produce this to your Lordships is to show you the necessity there is for other inquiries, other trials, other acquittals of parties, than those made by a collusive clan abroad, or by the Directors at home, who had required the parties to inquire of themselves, and to take the testimony of the judges at second-hand, as to the

conscience of the party accused, respecting acts which neither they nor any man living can look upon but with horror.

I have troubled your Lordships with the story of the Three Seals, as a specimen of the then state of the service, and the politics of the servants, civil and military, in the horrid abuses which then prevailed, and which render at length the most rigorous reformation necessary. I close this episode to resume the proceedings at the second revolution.

This affair of the three seals was, we have seen, to quiet the fears of the Nabob. His fears it was indeed necessary to quiet; for your Lordships will see that the man whose fears were to be set asleep by Major Calliaud's offering him, in a scheme for murdering his sovereign, an odd sort of opiate, made up of blood and treason, was now in a fair way of being murdered himself by the machinations of him whose seal was set to his murderous security of peace, and by those his accomplices, Holwell and Hastings: at least they resolved to put him in a situation in which his murder was in a manner inevitable, as you will see in the sequel of the transaction. Now the plan proceeds. The parties continued in the camp; but there was another *remora*. To remove a nabob and to create a revolution is not easy: houses are strong who have sons grown up with vigor and fitness for the command of armies. They are not easily overturned by removing the principal, unless the secondary is got rid of: and if this *remora* could be removed, everything was going on in a happy way in the business. This plan, which now (that is, about the month of July) began to get into great ripeness and forwardness, Mr. Holwell urged forward, Mr. Vansittart being hourly expected.

I do not know whether I am going to state a thing, though it is upon the records, which will not have too theatrical an appearance for the grave state in which we are. But here it is, — the difficulty, the knot, and the solution, as recorded by the parties themselves. It was the object of this bold, desperate, designing man, Cossim Ali Khân, who aimed at everything, and who scrupled not to do anything in attaining what he aimed at, to be appointed the lieutenant of the Nabob Jaffier Ali, and thus to get possession of his office during his lifetime under that name, with a design of murdering him: for that office, according to many usages of that country, totally supersedes the authority of the first magistrate, renders him a cipher in his hand, gives the administration of his affairs and command of his troops to the lieutenant. It was a part of his plan, that he was, after his appointment to the lieutenancy, to be named to the succession of the Nabob, who had several other children; but the eldest son stood in the way.

But as things hastened to a crisis, this difficulty was removed in the most extraordinary and providential unheard-of manner, by the most extraordinary event that, I believe, is recorded in history. Just in the nick of time, in the moment of projection, on the 3d of July, this Prince Meeran, in the flower of his age, bold, active, enterprising, lying asleep in his tent, is suddenly, without any one's knowing it, without any alarm or menace in the heavens that ever was heard of or mentioned, without any one whatever being hurt or even alarmed in the camp, killed with a flash of lightning. My Lords, thus was the Gordian knot cut. This prince dies of a flash of lightning, and Mr. Lushington (of whom you have heard) comes in

the morning with his hair standing erect, comes frightened into the presence of Major Calliaud, and, with the utmost alarm, tells him of a circumstance that was afterwards to give them so much pleasure. The alarm was immediately communicated to the Major, who was seized with a fright; and fearing lest the army should mutiny upon the death of their chief, it was contrived, in a manner that I believe was most difficult to contrive, that what might have excited a general mutiny was concealed by the ability, the good conduct, and dexterity of Major Calliaud for seven days together, till he led the army out of the place of danger. Thus a judgment fell upon one of the (innocent) murderers in the scene of the Three Seals. This man, who was probably guilty in his conscience as well as in act, thus fell by that most lucky, providential, and most useful flash of lightning.

There were at that time, it seems, in Calcutta, a wicked, skeptical set of people, who somehow or other believed that *human* agency was concerned in this elective flash, which came so very opportunely, and which was a favor so thankfully acknowledged. These wicked, ill-natured skeptics disseminated reports (which I am sure I do not mean to charge or prove, leaving the effect of them to you) very dishonorable, I believe, to Cossim Ali Khân in the business, and to some Englishmen who were concerned.

The difficulty of getting rid of Meeran being thus removed, Mr. Vansittart comes upon the scene. I verily believe he was a man of good intentions, and rather debauched by that amazing flood of iniquity which prevailed at that time, or hurried and carried away with it. In a few days he sent for Major Calliaud. All his objections vanish in *an instant:* like

that flash of lightning, everything is *instant*. The Major agrees to perform his part. They send for Cossim Ali Khân and Mr. Hastings; they open a treaty and conclude it with him, leaving the management of it to two persons, Mr. Holwell and another person, whom we have heard of, an Armenian, called Coja Petruse, who afterwards played his part in another illustrious scene. By this Petruse and Mr. Holwell the matter is settled. The moment Mr. Holwell is raised to be a Secretary of State, the revolution is accomplished. By it Cossim Ali Khân is to have the lieutenancy at present, and the succession. Everything is put into his hands, and he is to make for it large concessions, which you will hear of afterwards, to the Company. Cossim Ali Khân proposed to Mr. Holwell, what would have been no bad supplement to the flash of lightning, the murder of the Nabob; but Mr. Holwell was a man of too much honor and conscience to suffer that. He instantly flew out at it, and declared the whole business should stop, unless the affair of the murder was given up. Accordingly things were so settled. But if he gave the Nabob over to an intended murderer, and delivered his person, treasure, and everything into his hands, Cossim Ali Khân might have had no great reason to complain of being left to the execution of his own projects in his own way. The treaty was made, and amounted to this, — that the Company was to receive three great provinces: for here, as we proceed, you will have an opportunity of observing, with the progress of these plots, one thing which has constantly and uniformly pervaded the whole of these projects, and which the persons concerned in them have avowed as a principle of their actions, — that

they were first to take care of the Company's interest, then of their own; that is, first to secure to the Company an enormous bribe, and under the shadow of that bribe to take all the little emoluments they could to themselves. Three great, rich, southern provinces, maritime, or nearly maritime, Burdwan, Midnapoor, and Chittagong, were to be dissevered from the Subah and to be ceded to the Company. There were other minor stipulations, which it is not necessary at present to trouble you with, signed, sealed, and executed at Calcutta between these parties with the greatest possible secrecy. The lieutenancy and the succession were secured to Cossim Ali, and he was likewise to give somewhere about the sum of 200,000*l.* to the gentlemen who were concerned, as a reward for serving him so effectually, and for serving their country so well. Accordingly, these stipulations, actual or understood, (for they were eventually carried into effect,) being settled, a commission of delegation, consisting chiefly of Mr. Vansittart and Major Calliaud, was sent up to Moorshedabad: the new Governor taking this opportunity of paying the usual visit of respect to the Nabob, and in a manner which a new Governor coming into place would do, with the detail of which it is not necessary to trouble you. Mr. Hastings was at this time at the durbar; and having everything prepared, and the ground smoothed, they first endeavored to persuade the Nabob to deliver over the power negotiated for into the hands of their friend Cossim Ali Khân. But when the old man, frightened out of his wits, asked, "What is it he has bid for me?" and added, "I will give half as much again to save myself; pray let me know what my price is," — he entreated in vain. They were true,

firm, and faithful to their word and their engagement. When he saw they were resolved that he should be delivered into the hands of Cossim Ali Khân, he at once surrenders the whole to him. They instantly grasp it. He throws himself into a coat, and will not remain at home an hour, but hurries down to Calcutta to leave his blood at our door, if we should have a mind to take it. But the life of the Nabob was too great a stake (partly as a security for the good behavior of Cossim Ali Khân, and still more for the future use that might be made of him) to be thrown away, or left in the hands of a man who would certainly murder him, and who was very angry at being refused the murder of his father-in-law. The price of this second revolution was, according to their shares in it, (I believe I have it here,) somewhere about 200,000*l*. This little effusion to private interest settled the matter, and here ended the second revolution in the country: effected, indeed, without bloodshed, but with infinite treachery, with infinite mischief, consequent to the dismemberment of the country, and which had nearly become fatal to our concerns there, like everything else in which Mr. Hastings had any share.

This prince, Cossim Ali Khân, the friend of Mr. Hastings, knew that those who could give could take away dominion. He had scarcely got upon the throne, procured for him by our public spirit and his own iniquities, than he began directly and instantly to fortify himself, and to bend all his politics against those who were or could be the donors of such fatal gifts. He began with the natives who were in their interest, and cruelly put to death, under the eye of Mr. Hastings and his clan, all those who, by their

moneyed wealth or landed consideration, could give any effect to their dispositions in favor of those ambitious strangers. He removed from Moorshedabad higher up into the country, to Monghir, in order to be more out of our view. He kept his word pretty well, but not altogether faithfully, with the gentlemen; and though he had no money, for his treasury was empty, he gave obligations which are known by the name of *jeeps* — (the Indian vocabulary will by degrees become familiar to your Lordships, as we develop the modes and customs of the country). As soon as he had done this, he began to rack and tear the provinces that were left to him, to get as much from them as should compensate him for the revenues of those great provinces he had lost; and accordingly he began a scene of extortion, horrible, nefarious, without precedent or example, upon almost all the landed interest of that country. I mention this, because he is one of those persons whose governments Mr. Hastings, in a paper called his Defence, delivered in to the House of Commons, has produced as precedents and examples which he has thought fit to follow, and which he thought would justify him in the conduct he has pursued. This Cossim Ali Khân, after he had acted the tyrant on the landed interest, fell upon the moneyed interest. In that country there was a person called Juggut Seit. There were several of the family, who were bankers to such a magnitude as was never heard of in the world. Receivers of the public revenue, their correspondence extended all over Asia; and there are those who are of opinion that the house of Juggut Seit, including all its branches, was not worth less than six or seven millions sterling. This house became the prey of

Cossim Ali Khân; but Mr. Holwell had predicted that *it should be delivered over to Satan to be buffeted* (his own pious expression). He predicted the misfortunes that should befall them; and we chose a Satan to buffet them, and who did so buffet them, by the murder of the principal persons of the house, and by robbing them of great sums of their wealth, that I believe such a scene of nefarious tyranny, destroying and cutting up the root of public credit in that country, was scarce ever known. In the mean time Cossim was extending his tyranny over all who were obnoxious to him; and the persons he first sought were those traitors who had been friends to the English. Several of the principal of these he murdered. There was in the province of Bahar a man named Ramarain; he had got the most positive assurances of English faith; but Mr. Macguire, a member of the Council, on the receipt of five thousand gold mohurs, or something more than 8000*l.* sterling, delivered him up to be first imprisoned, then tortured, then robbed in consequence of the torture, and finally murdered, by Cossim Ali Khân. In this way Cossim Ali Khân acted, while our government looked on. I hardly choose to mention to you the fate of a certain native in consequence of a dispute with Mr. Mott, a friend of Mr. Hastings, which is in the Company's records,— records which are almost buried by their own magnitude from the knowledge of this country. In a contest with this native for his house and property, some scuffle having happened between the parties, the one attempting to seize and the other to defend, the latter made a complaint to the Nabob, who was in an entire subjection at that time to the English, and who ordered this unfortunate man, on

account of this very scuffle, arising from defending his property, to be blown off from the mouth of a cannon. In short, I am not able to tell your Lordships of all the nefarious transactions of this man, whom the intrigues of Mr. Holwell and Mr. Hastings had set upon the throne of Bengal. But there is a circumstance in this business that comes across here, and will tend to show another grievance that vexed that country, which vexed it long, and is one of the causes of its chief disasters, and which, I fear, is not so perfectly extirpated but that some part of its roots may remain in the ground at this moment.

Commerce, which enriches every other country in the world, was bringing Bengal to total ruin. The Company, in former times, when it had no sovereignty or power in the country, had large privileges under their *dustuck*, or permit: their goods passed, without paying duties, through the country. The servants of the Company made use of this dustuck for their own private trade, which, while it was used with moderation, the native government winked at in some degree; but when it got wholly into private hands, it was more like robbery than trade. These traders appeared everywhere; they sold at their own prices, and forced the people to sell to them at their own prices also. It appeared more like an army going to pillage the people, under pretence of commerce, than anything else. In vain the people claimed the protection of their own country courts. This English army of traders in their march ravaged worse than a Tartarian conqueror. The trade they carried on, and which more resembled robbery than commerce, anticipated the resources of the tyrant, and threatened to leave him no mate-

rials for imposition or confiscation. Thus this miserable country was torn to pieces by the horrible rapaciousness of a double tyranny. This appeared to be so strong a case, that a deputation was sent to him at his new capital, Monghir, to form a treaty for the purpose of giving some relief against this cruel, cursed, and oppressive trade, which was worse even than the tyranny of the sovereign. This trade Mr. Vansittart, the President about this time, that is, in 1763, who succeeded to Mr. Holwell, and was in close union of interests with the tyrant Cossim Ali Khân, by a treaty known by the name of the treaty of Monghir, agreed very much to suppress and to confine within something like reasonable bounds. There never was a doubt on the face of that treaty, that it was a just, proper, fair transaction. But as nobody in Bengal did then believe that rapine was ever forborne but in favor of bribery, the persons who lost every advantage by the treaty of Monghir, when they thought they saw corrupt negotiation carrying away the prizes of unlawful commerce, and were likely to see their trade crippled by Cossim Ali Khân, fell into a most violent fury at this treaty; and as the treaty was made without the concurrence of the rest of the Council, the Company's servants grew divided: one part were the advocates of the treaty, the other of the trade. The latter were universally of opinion that the treaty was bought for a great sum of money. The evidence we have on our records of the sums of money that are stated to have been paid on this occasion has never been investigated to the bottom; but we have it on record, that a great sum (70,000*l.*) was paid to persons concerned in that negotiation. The

rest were exceedingly wroth to see themselves not profiting by the negotiation, and losing the trade, or likely to be excluded from it; and they were the more so, because, as we have it upon our journals, during all that time the trade of the negotiators was not proscribed, but a purwannah was issued by Cossim Ali Khân, that the trade of his friends Mr. Vansittart and Mr. Hastings should not be subject to the general regulations. This filled the whole settlement with ill blood; but in the regulation itself (I put the motive and the secret history out of the case) undoubtedly Mr. Hastings and Mr. Vansittart were on the right side. They had shown to a demonstration the mischief of this trade. However, as the other party were strong, and did not readily let go their hold of this great advantage, first, dissensions, murmurs, various kinds of complaints, and ill blood arose. Cossim Ali was driven to the wall; and having at the same time made what he thought good preparations, a war broke out at last. And how did it break out? This Cossim Ali Khân signalized his first acts of hostility by an atrocity committed against the faith of treaties, against the rules of war, against every principle of honor. This intended murderer of his father-in-law, whom Mr. Hastings had assisted to raise to the throne of Bengal, well knowing his character and his disposition, and well knowing what such a man was capable of doing,—this man massacred the English wherever he met them. There were two hundred, or thereabouts, of the Company's servants, or their dependants, slaughtered at Patna with every circumstance of the most abominable cruelty. Their limbs were cut to pieces. The tyrant whom Mr. Hastings

set up cut and hacked the limbs of British subjects in the most cruel and perfidious manner, threw them into wells, and polluted the waters of the country with British blood. Immediately war is declared against him in form. That war sets the whole country in a blaze; and then other parties begin to appear upon the scene, whose transactions you will find yourselves deeply concerned in hereafter.

As soon as war was declared against Cossim, it was necessary to resolve to put up another Nabob, and to have another revolution: and where do they resort, but to the man whom, for his alleged tyranny, for his incapacity, for the numberless iniquities he was said to have committed, and for his total unfitness and disinclination to all the duties of government, they had dethroned? This very man they take up again, to place on the throne from which they had about two years before removed him, and for the effecting of which they had committed so many iniquities. Even this revolution was not made without being paid for. According to the usual order of procession, in which the youngest walk first, first comes the Company; and the Company had secured to it in perpetuity those provinces which Cossim Ali Khân had ceded, as it was thought, rather in the way of mortgage than anything else. Then, under the name of compensation for sufferings to the people concerned in the trade, and in the name of donation to an army and a navy which had little to do in this affair, they tax him — what sum do you think? They tax that empty and undone treasury of that miserable and undone country 500,000*l.* for a private emolument to themselves, — for the compensation for this iniquitous trade, — for the compensa-

tion for abuses of which he was neither the author nor the abettor, they tax this miserable prince 500,000*l.* That sum was given to individuals. Now comes the Company at home, which, on hearing this news, was all inflamed. The Directors were on fire. They were shocked at it, and particularly at this donation to the army and navy. They resolved they would give it no countenance and support. In the mean time the gentlemen did not trouble their heads upon that subject, but meant to exact and get their 500,000*l.* as they could.

Here was a third revolution, bought at this amazing sum, and this poor, miserable prince first dragged from Moorshedabad to Calcutta, then dragged back from Calcutta to Moorshedabad, the sport of fortune and the plaything of avarice. This poor man is again set up, but is left with no authority: his troops limited, — his person, everything about him, in a manner subjugated, — a British Resident the master of his court: he is set up as a pageant on this throne, with no other authority but what would be sufficient to give a countenance to presents, gifts, and donations. That authority was always left, when all the rest was taken away. One would have thought that this revolution might have satisfied these gentlemen, and that the money gained by it would have been sufficient. No. The partisans of Cossim Ali wanted another revolution. The partisans of the other side wished to have something more done in the present. They now began to think that to depose Cossim instantly, and to sell him to another, was too much at one time, — especially as Cossim Ali was a man of vigor and resolution, carrying on a fierce war against them. But what do you think they did? They began to see,

from the example of Cossim Ali, that the lieutenancy, the ministry of the king, was a good thing to be sold, and the sale of that might turn out as good a thing as the sale of the prince.

For this office there were two rival candidates, persons of great consideration in Bengal: one, a principal Mahomedan, called Mahomed Reza Khân, a man of high authority, great piety in his own religion, great learning in the law, of the very first class of Mahomedan nobility; but at the same time, on all these accounts, he was abhorred and dreaded by the Nabob, who necessarily feared that a man of Mahomed Reza Khân's description would be considered as better entitled and fitter for his seat, as Nabob of the provinces. To balance him, there was another man, known by the name of the Great Rajah Nundcomar. This man was accounted the highest of his caste, and held the same rank among the Gentoos that Mahomed Reza Khân obtained among the Mahomedans. The prince on the throne had no jealousy of Nundcomar, because he knew, that, as a Gentoo, he could not aspire to the office of Subahdar. For that reason he was firmly attached to him; he might depend completely on his services; he was *his* against Mahomed Reza Khân, and against the whole world. There was, however, a flaw in the Nabob's title, which it was necessary should be hid. And perhaps it lay against Mahomed Reza Khân as well as him. But it was a source of apprehension to the Nabob, and contributed to make him wish to keep all Mahomedan influence at a distance. For he was a Syed, that is to say, a descendant of Mahomet, and as such, though of the only acknowledged nobility among Mussulmen, would be by that circumstance

excluded, by the known laws of the Mogul empire, from being Subahdar in any of the Mogul provinces, in case the revival of the constitution of that empire should ever again take place.

An auction was now opened before the English Council at Calcutta. Mahomed Reza Khân bid largely; Nundcomar bid largely. The circumstances of these two rivals at the Nabob court were equally favorable to the pretensions of each. But the preponderating merits of Mahomed Reza Khân, arising from the subjection in which he was likely to keep the Nabob, and make him fitter for the purpose of continued exactions, induced the Council to take his money, which amounted to about 220,000*l.* Be the sum paid what it may, it was certainly a large one; in consequence of which the Council attempted to invest Mahomed Reza Khân with the office of Naib Subah, or Deputy Viceroy. As to Nundcomar, they fell upon him with a vengeful fury. He fought his battle as well as he could; he opposed bribe to bribe, eagle to eagle; but at length he was driven to the wall. Some received his money, but did him no service in return; others, more conscientious, refused to receive it; and in this battle of bribes he was vanquished. A deputation was sent from Calcutta to the miserable Nabob, to tear Nundcomar, his only support, from his side, and to put the object of all his terrors, Mahomed Reza Khân, in his place.

Thus began a new division that split the Presidency into violent factions; but the faction which adhered to Nundcomar was undoubtedly the weakest. That most miserable of men, Mir Jaffier Ali Khân, clinging, as to the last pillar, to Nundcomar, trembling at Mahomed Reza Khân, died in the struggle,

a miserable victim to all the revolutions, to all the successive changes and versatile politics at Calcutta. Like all the rest of the great personages whom we have degraded and brutalized by insult and oppression, he betook himself to the usual destructive resources of unprincipled misery, — sensuality, opium, and wine. His gigantic frame of constitution soon gave way under the oppression of this relief, and he died, leaving children and grandchildren by wives and concubines. On the old Nabob's death, Mahomed Reza Khân was acknowledged Deputy Nabob, the money paid, and this revolution completed.

Here, my Lords, opened a new source of plunder, peculation, and bribery, which was not neglected. Revolutions were no longer necessary; succession supplied their places: and well the object agreed with the policy. Rules of succession could not be very well ascertained to an office like that of the Nabob, which was hereditary only by the appointment of the Mogul. The issue by lawful wives would naturally be preferred by those who meant the quiet of the country. But a more doubtful title was preferred, as better adapted to the purposes of extortion and peculation. This miserable succession was sold, and the eldest of the issue of Munny Begum, an harlot, brought in to pollute the harem of the seraglio, of whom you will hear much hereafter, was chosen. He soon succeeded to the grave. Another son of the same prostitute succeeded to the same unhappy throne, and followed to the same untimely grave. Every succession was sold; and between venal successions and venal revolutions, in a very few years seven princes and six sales were seen successively in Bengal. The last was a minor, the issue

of a legitimate wife, admitted to succeed because a minor, and because there was none illegitimate left. He was instantly stripped of the allowance of his progenitors, and reduced to a pension of 160,000 a year. He still exists, and continued to the end of Mr. Hastings's government to furnish constant sources of bribery and plunder to him and his creatures.

The offspring of Munny Begum clinging, as his father did, to Nundcomar, they tore Nundcomar from his side, as they had done from the side of his father, and carried him down as a sort of prisoner to Calcutta; where, having had the weakness to become the first informer, he was made the first example. This person, pushed to the wall, and knowing that the man he had to deal with was desperate and cruel in his resentments, resolves on the first blow, and enters before the Council a regular information in writing of bribery against Mr. Hastings. In his preface to that charge he excuses himself for what is considered to be an act equally insane and wicked, and as the one inexpiable crime of an Indian, the discovery of the money he gives, — that Mr. Hastings had declaredly determined on his ruin, and to accomplish it had newly associated himself with one Mohun Persaud, a name I wish your Lordships to remember, a bitter enemy of his, an infamous person, whom Mr. Hastings knew to be such, and as such had turned him out of his house, — that Mr. Hastings had lately recalled, and held frequent communications with this Mohun Persaud, the subject of which he had no doubt was his ruin. In the year 1775 he was hanged by those incorrupt English judges who were sent to India by Parliament to protect the natives from oppression.

Your Lordships will observe that this new sale of the office of ministers succeeded to the sale of that of nabobs. All these varied and successive sales shook the country to pieces. As if those miserable exhausted provinces were to be cured of inanition by phlebotomy, while Cossim Ali was racking it above, the Company were drawing off all its nutriment below. A dreadful, an extensive, and most chargeable war followed. Half the northern force of India poured down like a torrent on Bengal, endangered our existence, and exhausted all our resources. The war was the fruit of Mr. Hastings's cabals. Its termination, as usual, was the result of the military merit and the fortune of this nation. Cossim Ali, after having been defeated by the military genius and spirit of England, (for the Adamses, Monroes, and others of that period, I believe, showed as much skill and bravery as any of their predecessors,) in his flight swept away above three millions in money, jewels, or effects, out of a country which he had plundered and exhausted by his unheard-of exactions. However, he fought his way like a retiring lion, turning his face to his pursuers. He still fought along his frontier. His ability and his money drew to his cause the Subahdar of Oude, the famous Sujah ul Dowlah. The Mogul entered into these wars, and penetrated into the lower provinces on one side, whilst Bulwant Sing, the Rajah of Benares, entered them on another. After various changes of party and changes of fortune, the loss which began in the treachery of the civil service was, as I have before remarked, redeemed by military merit. Many examples of the same sort have since been seen.

Whilst these things were transacted in India, the Court of Directors in London, hearing of so many changes, hearing of such an incredible mass of perfidy and venality, knowing that there was a general market made of the country and of the Company, that the flame of war spread from province to province, that, in proportion as it spread, the fire glowed with augmented fierceness, and that the rapacity which originally gave rise to it was following it in all its progress, — the Company, my Lords, alarmed not only for their acquisitions, but their existence, and finding themselves sinking lower and lower by every victory they obtained, thought it necessary at length to come to some system and some settlement. After composing their differences with Lord Clive, they sent him out to that country about the year 1765, in order, by his name, weight, authority, and vigor of mind, to give some sort of form and stability to government, and to rectify the innumerable abuses which prevailed there, and particularly that great source of disorders, that fundamental abuse, presents: for the bribes by which all these revolutions were bought had not the name of conditions, stipulations, or rewards; they even had the free and gratuitous style of presents. The receivers contended that they were mere gratuities given for service done, or mere tokens of affection and gratitude to the parties. They may give them what names they please, and your Lordships will think of them what you please; but they were the donations of misery to power, the gifts of sufferers to the oppressors; and consequently, where they prevailed, they left no certain property or fixed situation to any man in India, from the highest to the lowest.

The Court of Directors sent out orders to enlarge

the servants' covenants with new and severe clauses, strongly prohibiting the practice of receiving presents. Lord Clive himself had been a large receiver of them. Yet, as it was in the moment of a revolution which gave them all they possessed, the Company would hear no more of it. They sent him out to reform: whether they chose well or ill does not signify. I think, upon the whole, they chose well; because his name and authority could do much. They sent him out to redress the grievances of that country, and it was necessary he should be well armed for that service. They sent him out with such powers as no servant of the Company ever held before. I would not be understood here in my own character, much less in the delegated character in which I stand, to contend for any man in the totality of his conduct. Perhaps in some of his measures he was mistaken, and in some of his acts reprehensible; but justice obliges me to say, that the plan which he formed and the course which he pursued were in general great and well imagined, — that he laid great foundations, if they had been properly built upon. For, in the first place, he composed all the neighboring countries torn to pieces by the wars of Cossim Ali, and quieted the apprehensions raised by the opinion of the boundless ambition of England. He took strong measures to put an end to a great many of the abuses that prevailed in the country subject to the Company. He then proceeded to the upper provinces, and formed a plan which, for a military man, has great civil and political merit. He put a bound to the aspiring spirit of the Company's servants; he limited its conquests; he prescribed bounds to its ambition. "First" (says he) "quiet the minds of the

country; what you have obtained regulate; make it known to India that you resolve to acquire no more."

On this solid plan he fixed every prince that was concerned in the preceding wars, on the one side and on the other, in an happy and easy settlement. He restored Sujah ul Dowlah, who had been driven from his dominions by the military arm of Great Britain, to the rank of Vizier, and to the dominion of the territories of Oude. With a generosity that astonished all Asia, he reinstated this expelled enemy of his nation peaceably upon his throne. And this act of politic generosity did more towards quieting the minds of the people of Asia than all the terror, great as it was, of the English arms. At the same time, Lord Clive, generous to all, took peculiar care of our friends and allies. He took care of Bulwant Sing, the great Rajah of Benares, who had taken our part in the war. He secured him from the revenge of Sujah ul Dowlah. The Mogul had granted us the superiority over Bulwant Sing. Lord Clive reëstablished him in a secure, easy independency. He confirmed him, under the British guaranty, in the rich principality which he held.

The Mogul, the head of the Mussulman religion in India, and of the Indian empire, a head honored and esteemed even in its ruins, he procured to be recognized by all the persons that were connected with his empire. The rents that ought to be paid to the Vizier of the Empire he gave to the Vizierate. Thus our alliances were cemented, our enemies were reconciled, all Asia was conciliated by our settlement with the king. To that unhappy fugitive king, driven from place to place, the sport of fortune, now an emperor and now a prisoner, prayed for in every

mosque in which his authority was conspired against, one day opposed by the coin struck in his name and the other day sold for it, — to this descendant of Tamerlane he allotted, with a decent share of royal dignity, an honorable fixed residence, where he might be useful and could not be dangerous.

As to the Bengal provinces, he did not take for the Company the viceroyalty, as Mr. Holwell would have persuaded, almost forced, the Company to do; but, to satisfy the prejudices of the Mahomedans, the country was left in the hands nominally of the Subah, or viceroy, who was to administer the criminal justice and the exterior forms of royalty. He obtained from the sovereign the *dewanny*. This is the great act of the constitutional entrance of the Company into the body politic of India. It gave to the settlement of Bengal a fixed constitutional form, with a legal title, acknowledged and recognized now for the first time by all the natural powers of the country, because it arose from the charter of the undoubted sovereign. The *dewanny*, or high-stewardship, gave to the Company the collection and management of the revenue; and in this modest and civil character they appeared, not the oppressors, but the protectors of the people. This scheme had all the real power, without any invidious appearance of it; it gave them the revenue, without the parade of sovereignty. On this double foundation the government was happily settled. The minds of the natives were quieted. The Company's territories and views were circumscribed. The arm of force was put out of sight. The imperial name covered everything. The power of the purse was in the hand of the Company. The power of the sword was in effect

so, as they contracted for the maintenance of the army. The Company had a revenue of a million and a half. The Nabob had, indeed, fallen from any real and effective power, yet the dignity of the court was maintained. The prejudices and interests of the Mahomedans, and particularly of their nobility, who had suffered more by this great revolution even than the old inhabitants of the country, were consulted; for by this plan a revenue of 500,000*l.* was settled on the viceroyalty, which was thus enabled to provide in some measure for those great families. The Company likewise, by this plan, in order to enjoy their revenues securely, and to avoid envy and murmur, put them into the hands of Mahomed Reza Khân, whom Lord Clive found in the management of affairs, and did not displace; and he was now made deputy-steward to the Company, as he had been before lieutenant-viceroy to the Nabob. A British Resident at Moorshedabad was established as a control. The Company exercised their power over the revenue in the first instance through the natives, but the British Resident was in reality the great mover.

If ever this nation stood in a situation of glory throughout Asia, it was in that moment. But, as I have said, some material errors and mistakes were committed. After the formation of this plan, Lord Clive unfortunately did not stay long enough in the country to give consistency to the measures of reformation he had undertaken, but rapidly returned to England; and after his departure, the government that continued had not vigor or authority to support the settlement then made, and considerable abuses began to prevail in every quarter. Another capital period in our history here commences. Those who

succeeded (though I believe one of them was one of the honestest men that ever served the Company, I mean Governor Verelst) had not weight enough to poise the system of the service, and consequently many abuses and grievances again prevailed. Supervisors were appointed to every district, as a check on the native collectors, and to report every abuse as it should arise. But they who were appointed to redress grievances were themselves accused of being guilty of them. However, the disorders were not of that violent kind which preceded Mr. Hastings's departure, nor such as followed his return: no mercenary wars, no mercenary revolutions, no extirpation of nations, no violent convulsions in the revenue, no subversion of ancient houses, no general sales of any descriptions of men, — none of these, but certainly such grievances as made it necessary for the Company to send out another commission in 1769, with instructions pointing out the chief abuses. It was composed of Mr. Vansittart, Mr. Ford, and Mr. Scrafton. The unfortunate end of that commission is known to all the world; but I mention it in order to state that the receipt of presents was considered as one of the grievances which then prevailed in India, and that the supervisors under that commission were ordered upon no account whatever to take presents. Upon the unfortunate catastrophe which happened, the Company was preparing to send out another for the rectification of these grievances, when Parliament thought it necessary to supersede that commission, to take the matter into their own hands, and to appoint another commission in a Parliamentary way (of which Mr. Hastings was one) for the better government of that country. Mr. Hastings, as I must mention to

your Lordships, soon after the deposition and restoration of Jaffier Ali Khân, and before Lord Clive arrived, quitted for a while the scene in which he had been so mischievously employed, and returned to England to strengthen himself by those cabals which again sent him out with new authority to pursue the courses which were the natural sequel to his former proceedings. He returned to India with great power, indeed, — first to a seat in Council at Fort St. George, and from thence to succeed to the Presidency of Fort William. On him the Company placed their chief reliance. Happy had it been for them, happy for India and for England, if his conduct had been such as to spare your Lordships and the Commons the exhibition of this day!

When this government, with Mr. Hastings at the head of it, was settled, Moorshedabad did still continue the seat of the native government, and of all the collections. Here the Company was not satisfied with placing a Resident at the durbar, which was the first step to our assuming the government in that country. These steps must be traced by your Lordships; for I should never have given you this trouble, if it was not necessary to possess you clearly of the several progressive steps by which the Company's government came to be established and to supersede the native. The next step was the appointment of supervisors in every province, to oversee the native collector. The third was to establish a general Council of Revenue at Moorshedabad, to superintend the great steward, Mahomed Reza Khân. In 1772 that Council by Mr. Hastings was overturned, and the whole management of the revenue brought to Calcutta. Mahomed Reza Khân, by orders of the Company, was turned out of

all his offices, and turned out for reasons and principles which your Lordships will hereafter see; and at last the dewanny was entirely taken out of the native hands, and settled in the Supreme Council and Presidency itself in Calcutta; and so it remained until the year 1781, when Mr. Hastings made another revolution, took it out of the hands of the Supreme Council, in which the orders of the Company, an act of Parliament, and their own act had vested it, and put it into a subordinate council: that is, it was entirely vested in himself.

Now your Lordships see the whole of the revolutions. I have stated them, I trust, with perspicuity, — stated the grounds and principles upon which they were made, — stated the abuses that grew upon them, — and that every revolution produced its abuse. You saw the native government vanish by degrees, until it was reduced to a situation fit for nothing but to become a private perquisite, as it has been, to Mr. Hastings, and to be granted to whom he pleased. The English government succeeded, at the head of which Mr. Hastings was placed by an act of Parliament, having before held the office of President of the Council, — the express object of both these appointments being to redress grievances; and within these two periods of his power, as President and Governor-General, were those crimes committed of which he now stands accused. All this history is merely by way of illustration: his crimination begins from his nomination to the Presidency; and we are to consider how he comported himself in that station, and in his office of Governor-General.

The first thing, in considering the merits or demer-

its of any governor, is to have some test by which they are to be tried. And here, my Lords, we conceive, that, when a British governor is sent abroad, he is sent to pursue the good of the people as much as possible in the spirit of the laws of this country, which in all respects intend their conservation, their happiness, and their prosperity. This is the principle upon which Mr. Hastings was bound to govern, and upon which he is to account for his conduct here. His rule was, what a British governor, intrusted with the power of this country, was bound to do or to forbear. If he has performed and if he has abstained as he ought, dismiss him honorably acquitted from your bar; otherwise condemn him. He may resort to other principles and to other maxims; but this country will force him to be tried by its laws. The law of this country recognizes that well-known crime called misconduct in office; it is a head of the law of England, and, so far as inferior courts are competent to try it, may be tried in them. Here your Lordships' competence is plenary: you are fully competent both to inquire into and to punish the offence.

And, first, I am to state to your Lordships, by the direction of those whom I am bound to obey, the principles on which Mr. Hastings declares he has conducted his government, — principles which he has avowed, first in several letters written to the East India Company, next in a paper of defence delivered to the House of Commons explicitly, and more explicitly in his defence before your Lordships. Nothing in Mr. Hastings's proceedings is so curious as his several defences; and nothing in the defences is so singular as the principles upon which he proceeds. Your Lordships will have to decide not only upon a

large, connected, systematic train of misdemeanors, but an equally connected system of principles and maxims of government, invented to justify those misdemeanors. He has brought them forward and avowed them in the face of day. He has boldly and insultingly thrown them in the face of the representatives of a free people, and we cannot pass them by without adopting them. I am directed to protest against those grounds and principles upon which he frames his defence; for, if those grounds are good and valid, they carry off a great deal at least, if not entirely, the foundation of our charge.

My Lords, we contend that Mr. Hastings, as a British governor, ought to govern on British principles, not by British forms, — God forbid! — for if ever there was a case in which the letter kills and the spirit gives life, it would be an attempt to introduce British forms and the substance of despotic principles together into any country. No! We call for that spirit of equity, that spirit of justice, that spirit of protection, that spirit of lenity, which ought to characterize every British subject in power; and on these, and these principles only, he will be tried.

But he has told your Lordships, in his defence, that actions in Asia do not bear the same moral qualities which the same actions would bear in Europe.

My Lords, we positively deny that principle. I am authorized and called upon to deny it. And having stated at large what he means by saying that the same actions have not the same qualities in Asia and in Europe, we are to let your Lordships know that these gentlemen have formed a plan of *geographical morality*, by which the duties of men, in public and in private situations, are not to be governed by their

relation to the great Governor of the Universe, or by their relation to mankind, but by climates, degrees of longitude, parallels, not of life, but of latitudes: as if, when you have crossed the equinoctial, all the virtues die, as they say some insects die when they cross the line; as if there were a kind of baptism, like that practised by seamen, by which they unbaptize themselves of all that they learned in Europe, and after which a new order and system of things commenced.

This geographical morality we do protest against; Mr. Hastings shall not screen himself under it; and on this point I hope and trust many words will not be necessary to satisfy your Lordships. But we think it necessary, in justification of ourselves, to declare that the laws of morality are the same everywhere, and that there is no action which would pass for an act of extortion, of peculation, of bribery, and of oppression in England, that is not an act of extortion, of peculation, of bribery, and oppression in Europe, Asia, Africa, and all the world over. This I contend for not in the technical forms of it, but I contend for it in the substance.

Mr. Hastings comes before your Lordships not as a British governor answering to a British tribunal, but as a subahdar, as a bashaw of three tails. He says, "I had an arbitrary power to exercise: I exercised it. Slaves I found the people: slaves they are, — they are so by their constitution; and if they are, I did not make it for them. I was unfortunately bound to exercise this arbitrary power, and accordingly I did exercise it. It was disagreeable to me, but I did exercise it; and no other power can be exercised in that country." This, if it be true, is a plea in bar.

But I trust and hope your Lordships will not judge by laws and institutions which you do not know, against those laws and institutions which you do know, and under whose power and authority Mr. Hastings went out to India. Can your Lordships patiently hear what *we* have heard with indignation enough, and what, if there were nothing else, would call these principles, as well as the actions which are justified on such principles, to your Lordships' bar, that it may be known whether the peers of England do not sympathize with the Commons in their detestation of such doctrine? Think of an English governor tried before you as a British subject, and yet declaring that he governed on the principles of arbitrary power! His plea is, that he did govern there on arbitrary and despotic, and, as he supposes, Oriental principles. And as this plea is boldly avowed and maintained, and as, no doubt, all his conduct was perfectly correspondent to these principles, the principles and the conduct must be tried together.

If your Lordships will now permit me, I will state one of the many places in which he has avowed these principles as the basis and foundation of all his conduct. "The sovereignty which they assumed, it fell to my lot, very unexpectedly, to exert; and whether or not such power, or powers of that nature, were delegated to me by any provisions of any act of Parliament, I confess myself too little of a lawyer to pronounce. I only know that the acceptance of the sovereignty of Benares, &c., is not acknowledged or admitted by any act of Parliament; and yet, by the particular interference of the majority of the Council, the Company is clearly and indisputably seized of that sovereignty." So that this gentleman, because

he is not a lawyer, nor clothed with those robes which distinguish, and well distinguish, the learning of this country, is not to know anything of his duty; and whether he was bound by any, or what act of Parliament, is a thing he is not lawyer enough to know! Now, if your Lordships will suffer the laws to be broken by those who are not of the long robe, I am afraid those of the long robe will have none to punish but those of their own profession. He therefore goes to a law he is better acquainted with, — that is, the law of arbitrary power and force, if it deserves to be called by the name of law. "If, therefore," says he, "the *sovereignty* of Benares, as ceded to us by the Vizier, have *any rights whatever* annexed to it, and be not a mere empty word without meaning, those rights must be such as are held, countenanced, and established by the law, custom, and usage of the Mogul empire, and not by the provisions of any British act of Parliament hitherto enacted. *Those rights*, and none other, I have been the involuntary instrument of enforcing. And if any future act of Parliament shall positively or by implication tend to annihilate those very rights, or their exertion as I have exerted them, I much fear that the boasted sovereignty of Benares, which was held up as an acquisition, almost obtruded on the Company against my consent and opinion, (for I acknowledge that even then I foresaw many difficulties and inconveniences in its future exercise,) — I fear, I say, that this sovereignty will be found a burden instead of a benefit, a heavy clog rather than a precious gem to its present possessors: I mean, unless the whole of our territory in that quarter shall be rounded and made an uniform compact body by one grand and systematic arrangement,

— such an arrangement as shall do away all the mischiefs, doubts, and inconveniences (both to the governors and the governed) arising from the variety of tenures, rights, and claims in all cases of landed property and feudal jurisdiction in India, from the informality, invalidity, and instability of all engagements in so divided and unsettled a state of society, and from the unavoidable anarchy and confusion of different laws, religions, and prejudices, moral, civil, and political, all jumbled together in one unnatural and discordant mass.

"Every part of Hindostan has been constantly exposed to these and similar disadvantages ever since the Mahomedan conquests. The Hindoos, who never incorporated with their conquerors, were kept in order only by the strong hand of power. The constant necessity of similar exertions would increase at once their energy and extent; so that rebellion itself is the parent and promoter of despotism. Sovereignty in India implies nothing else. For I know not how we can form an estimate of its powers, but from its visible effects; and those are everywhere the same, from Cabool to Assam. The whole history of Asia is nothing more than precedents to prove the invariable exercise of arbitrary power. To all this I strongly alluded in the minutes I delivered in Council, when the treaty with the new Vizier was on foot in 1775; and I wished to make Cheyt Sing independent, because in India dependence included a thousand evils, many of which I enumerated at that time, and they are entered in the ninth clause of the first section of this charge. I knew the powers with which an Indian sovereignty is armed, and the dangers to which tributaries are exposed. I knew, that,

from the history of Asia, and from the very nature of mankind, the subjects of a despotic empire are always vigilant for the moment to rebel, and the sovereign is ever jealous of rebellious intentions. A zemindar is an Indian subject, and as such exposed to the common lot of his fellows. *The mean and depraved state of a mere zemindar* is therefore this very dependence above mentioned on a despotic government, this very proneness to shake off his allegiance, and this very exposure to continual danger from his sovereign's jealousy, which are consequent on the political state of Hindostanic governments. Bulwant Sing, if he had been, and Cheyt Sing, as long as he was a zemindar, stood exactly in this *mean and depraved state* by the constitution of his country. I did not make it for him, but would have secured him from it. Those who made him a zemindar entailed upon him the consequences of so mean and depraved a tenure. Aliverdy Khân and Cossim Ali fined all their zemindars on the necessities of war, and on every pretence either of court necessity or court extravagance."

My Lords, you have now heard the principles on which Mr. Hastings governs the part of Asia subjected to the British empire. You have heard his opinion of the mean and depraved state of those who are subject to it. You have heard his lecture upon arbitrary power, which he states to be the constitution of Asia. You hear the application he makes of it; and you hear the practices which he employs to justify it, and who the persons were on whose authority he relies, and whose example he professes to follow. In the first place, your Lordships will be astonished at the audacity with which he speaks of his own admin-

istration, as if he was reading a speculative lecture on the evils attendant upon some vicious system of foreign government in which he had no sort of concern whatsoever. And then, when in this speculative way he has established, or thinks he has, the vices of the government, he conceives he has found a sufficient apology for his own crimes. And if he violates the most solemn engagements, if he oppresses, extorts, and robs, if he imprisons, confiscates, banishes at his sole will and pleasure, when we accuse him for his ill-treatment of the people committed to him as a sacred trust, his defence is, — "To be robbed, violated, oppressed, is their privilege. Let the constitution of their country answer for it. I did not make it for them. Slaves I found them, and as slaves I have treated them. I was a despotic prince. Despotic governments are jealous, and the subjects prone to rebellion. This very proneness of the subject to shake off his allegiance exposes him to continual danger from his sovereign's jealousy, and this is consequent on the political state of Hindostanic governments." He lays it down as a rule, that despotism is the genuine constitution of India, that a disposition to rebellion in the subject or dependent prince is the necessary effect of this despotism, and that jealousy and its consequences naturally arise on the part of the sovereign, — that the government is everything, and the subject nothing, — that the great landed men are in a mean and depraved state, and subject to many evils.

Such a state of things, if true, would warrant conclusions directly opposite to those which Mr. Hastings means to draw from them, both argumentatively and practically, first to influence his conduct, and then to bottom his defence of it.

Perhaps you will imagine that the man who avows these principles of arbitrary government, and pleads them as the justification of acts which nothing else can justify, is of opinion that they are on the whole good for the people over whom they are exercised. The very reverse. He mentions them as horrible things, tending to inflict on the people a thousand evils, and to bring on the ruler a continual train of dangers. Yet he states, that your acquisitions in India will be a detriment instead of an advantage, if you destroy arbitrary power, unless you can reduce all the religious establishments, all the civil institutions, and tenures of land, into one uniform mass, — that is, unless by acts of arbitrary power you extinguish all the laws, rights, and religious principles of the people, and force them to an uniformity, and on that uniformity build a system of arbitrary power.

But nothing is more false than that despotism is the constitution of any country in Asia that we are acquainted with. It is certainly not true of any Mahomedan constitution. But if it were, do your Lordships really think that the nation would bear, that any human creature would bear, to hear an English governor defend himself on such principles? or, if he can defend himself on such principles, is it possible to deny the conclusion, that no man in India has a security for anything, but by being totally independent of the British government? Here he has declared his opinion, that he is a despotic prince, that he is to use arbitrary power; and of course all his acts are covered with that shield. "*I know*," says he, "*the constitution of Asia only from its practice.*" Will your Lordships submit to hear the corrupt practices of mankind made the principles of

government? No! it will be your pride and glory to teach men intrusted with power, that, in their use of it, they are to conform to principles, and not to draw their principles from the corrupt practice of any man whatever. Was there ever heard, or could it be conceived, that a governor would dare to heap up all the evil practices, all the cruelties, oppressions, extortions, corruptions, briberies, of all the ferocious usurpers, desperate robbers, thieves, cheats, and jugglers, that ever had office, from one end of Asia to another, and, consolidating all this mass of the crimes and absurdities of barbarous domination into one code, establish it as the whole duty of an English governor? I believe that till this time so audacious a thing was never attempted by man.

He have arbitrary power! My Lords, the East India Company have not arbitrary power to give him; the king has no arbitrary power to give him; your Lordships have not; nor the Commons, nor the whole legislature. We have no arbitrary power to give, because arbitrary power is a thing which neither any man can hold nor any man can give. No man can lawfully govern himself according to his own will; much less can one person be governed by the will of another. We are all born in subjection, — all born equally, high and low, governors and governed, in subjection to one great, immutable, pre-existent law, prior to all our devices and prior to all our contrivances, paramount to all our ideas and all our sensations, antecedent to our very existence, by which we are knit and connected in the eternal frame of the universe, out of which we cannot stir.

This great law does not arise from our conventions or compacts; on the contrary, it gives to our

conventions and compacts all the force and sanction they can have. It does not arise from our vain institutions. Every good gift is of God; all power is of God; and He who has given the power, and from whom alone it originates, will never suffer the exercise of it to be practised upon any less solid foundation than the power itself. If, then, all dominion of man over man is the effect of the Divine disposition, it is bound by the eternal laws of Him that gave it, with which no human authority can dispense, — neither he that exercises it, nor even those who are subject to it; and if they were mad enough to make an express compact that should release their magistrate from his duty, and should declare their lives, liberties, and properties dependent upon, not rules and laws, but his mere capricious will, that covenant would be void. The acceptor of it has not his authority increased, but he has his crime doubled. Therefore can it be imagined, if this be true, that He will suffer this great gift of government, the greatest, the best, that was ever given by God to mankind, to be the plaything and the sport of the feeble will of a man, who, by a blasphemous, absurd, and petulant usurpation, would place his own feeble, contemptible, ridiculous will in the place of the Divine wisdom and justice?

The title of conquest makes no difference at all. No conquest can give such a right; for conquest, that is, force, cannot convert its own injustice into a just title, by which it may rule others at its pleasure. By conquest, which is a more immediate designation of the hand of God, the conqueror succeeds to all the painful duties and subordination to the power of God which belonged to the sovereign whom

he has displaced, just as if he had come in by the positive law of some descent or some election. To this at least he is strictly bound: he ought to govern them as he governs his own subjects. But every wise conqueror has gone much further than he was bound to go. It has been his ambition and his policy to reconcile the vanquished to his fortune, to show that they had gained by the change, to convert their momentary suffering into a long benefit, and to draw from the humiliation of his enemies an accession to his own glory. This has been so constant a practice, that it is to repeat the histories of all politic conquerors in all nations and in all times; and I will not so much distrust your Lordships' enlightened and discriminating studies and correct memories as to allude to one of them. I will only show you that the Court of Directors, under whom he served, has adopted that idea, — that they constantly inculcated it to him, and to all the servants, — that they run a parallel between their own and the native government, and, supposing it to be very evil, did not hold it up as an example to be followed, but as an abuse to be corrected, — that they never made it a question, whether India is to be improved by English law and liberty, or English law and liberty vitiated by Indian corruption.

No, my Lords, this arbitrary power is not to be had by conquest. Nor can any sovereign have it by succession; for no man can succeed to fraud, rapine, and violence. Neither by compact, covenant, or submission, — for men cannot covenant themselves out of their rights and their duties, — nor by any other means, can arbitrary power be conveyed to

any man. Those who give to others such rights perform acts that are void as they are given, — good indeed and valid only as tending to subject themselves, and those who act with them, to the Divine displeasure; because morally there can be no such power. Those who give and those who receive arbitrary power are alike criminal; and there is no man but is bound to resist it to the best of his power, wherever it shall show its face to the world. It is a crime to bear it, when it can be rationally shaken off. Nothing but absolute impotence can justify men in not resisting it to the utmost of their ability.

Law and arbitrary power are in eternal enmity. Name me a magistrate, and I will name property; name me power, and I will name protection. It is a contradiction in terms, it is blasphemy in religion, it is wickedness in politics, to say that any man can have arbitrary power. In every patent of office the duty is included. For what else does a magistrate exist? To suppose for power is an absurdity in idea. Judges are guided and governed by the eternal laws of justice, to which we are all subject. We may bite our chains, if we will, but we shall be made to know ourselves, and be taught that man is born to be governed by law; and he that will substitute *will* in the place of it is an enemy to GOD.

Despotism does not in the smallest degree abrogate, alter, or lessen any one duty of any one relation of life, or weaken the force or obligation of any one engagement or contract whatsoever. Despotism, if it means anything that is at all defensible, means a mode of government bound by no

written rules, and coerced by no controlling magistracies or well-settled orders in the state. But if it has no written law, it neither does nor can cancel the primeval, indefeasible, unalterable law of Nature and of nations; and if no magistracies control its exertions, those exertions must derive their limitation and direction either from the equity and moderation of the ruler, or from downright revolt on the part of the subject by rebellion, divested of all its criminal qualities. The moment a sovereign removes the idea of security and protection from his subjects, and declares that he is everything and they nothing, when he declares that no contract he makes with them can or ought to bind him, he then declares war upon them: he is no longer sovereign; they are no longer subjects.

No man, therefore, has a right to arbitrary power. But the thought which is suggested by the depravity of him who brings it forward is supported by a gross confusion of ideas and principles, which your Lordships well know how to discern and separate. It is manifest, that, in the Eastern governments, and the Western, and in all governments, the supreme power in the state cannot, whilst that state subsists, be rendered criminally responsible for its actions: otherwise it would not be the supreme power. It is certainly true: but the actions do not change their nature by losing their responsibility. The arbitrary acts which are unpunished are not the less vicious, though none but God, the conscience, and the opinions of mankind take cognizance of them.

It is not merely so in this or that government, but in all countries. The king in this country is undoubtedly unaccountable for his actions. The

House of Lords, if it should ever exercise, (God forbid I should suspect it would ever do what it has never done!) — but if it should ever abuse its judicial power, and give such a judgment as it ought not to give, whether from fear of popular clamor on the one hand, or predilection to the prisoner on the other, — if they abuse their judgments, there is no calling them to an account for it. And so, if the Commons should abuse their power, nay, if they should have been so greatly delinquent as not to have prosecuted this offender, they could not be accountable for it; there is no punishing them for their acts, because we exercise a part of the supreme power. But are they less criminal, less rebellious against the Divine Majesty? are they less hateful to man, whose opinions they ought to cultivate as far as they are just? No: till society fall into a state of dissolution, they cannot be accountable for their acts. But it is from confounding the unaccountable character inherent in the supreme power with arbitrary power, that all this confusion of ideas has arisen.

Even upon a supposition that arbitrary power can exist anywhere, which we deny totally, and which your Lordships will be the first and proudest to deny, still, absolute supreme dominion was never conferred or delegated by you, — much less, arbitrary power, which never did in any case, nor ever will in any case, time, or country, produce any one of the ends of just government.

It is true that the supreme power in every constitution of government must be absolute, and this may be corrupted into the arbitrary. But all good constitutions have established certain fixed rules for the exercise of their functions, which they rarely or ever

depart from, and which rules form the security against that worst of evils, the government of will and force instead of wisdom and justice.

But though the supreme power is in a situation resembling arbitrary, yet never was there heard of in the history of the world, that is, in that mixed chaos of human wisdom and folly, such a thing as an *intermediate* arbitrary power, — that is, of an officer of government who is to exert authority over the people without any law at all, and who is to have the benefit of all laws, and all forms of law, when he is called to an account. For that is to let a wild beast (for such is a man without law) loose upon the people to prey on them at his pleasure, whilst all the laws which ought to secure the people against the abuse of power are employed to screen that abuse against the cries of the people.

This is *de facto* the state of our Indian government. But to establish it so in right as well as in fact is a thing left for us to begin with, the first of mankind. For a subordinate arbitrary or even despotic power never was heard of in right, claim, or authorized practice; least of all has it been heard of in the Eastern governments, where all the instances of severity and cruelty fall upon governors and persons intrusted with power. This would be a gross contradiction. Before Mr. Hastings, none ever came before his superiors to claim it; because, if any such thing could exist, he claims the very power of that sovereign who calls him to account.

But suppose a man to come before us, denying all the benefits of law to the people under him, — and yet, when he is called to account, to claim all the benefits of that law which was made to screen man-

kind from the excesses of power: such a claim, I will venture to say, is a monster that never existed, except in the wild imagination of some theorist. It cannot be admitted, because it is a perversion of the fundamental principle, that every power given for the protection of the people below should be responsible to the power above. It is to suppose that the people shall have no laws with regard to *him*, yet, when *he* comes to be tried, he shall claim the protection of those laws which were made to secure the people from his violence,—that he shall claim a fair trial, an equitable hearing, every advantage of counsel, (God forbid he should not have them!) yet that the people under him shall have none of those advantages. The reverse is the principle of every just and rational procedure. For the people, who have nothing to use but their natural faculties, ought to be gently dealt with; but those who are intrusted with an artificial and instituted authority have in their hands a great deal of the force of other people; and as their temptations to injustice are greater, so their means are infinitely more effectual for mischief by turning the powers given for the preservation of society to its destruction: so that, if an arbitrary procedure be justifiable, (a strong one I am sure is,) it is when used against those who pretend to use it against others.

My Lords, I will venture to say of the governments of Asia, that none of them ever had an arbitrary power; and if any governments had an arbitrary power, they cannot delegate it to any persons under them: that is, they cannot so delegate it to others as not to leave them accountable on the principles upon which it was given. As this is a contradiction

in terms, a gross absurdity, as well as a monstrous wickedness, let me say, for the honor of human nature, that, although undoubtedly we may speak it with the pride of England that we have better institutions for the preservation of the rights of men than any other country in the world, yet I will venture to say that no country has wholly meant, or ever meant, to give this power.

As it cannot exist in right on any rational and solid principles of government, so neither does it exist in the constitution of Oriental governments, — and I do insist upon it, that Oriental governments know nothing of arbitrary power. I have taken as much pains as I could to examine into the constitutions of them. I have been endeavoring to inform myself at all times on this subject; of late my duty has led me to a more minute inspection of them; and I do challenge the whole race of man to show me any of the Oriental governors claiming to themselves a right to act by arbitrary will.

The greatest part of Asia is under Mahomedan governments. To name a Mahomedan government is to name a government by law. It is a law enforced by stronger sanctions than any law that can bind a Christian sovereign. Their law is believed to be given by God; and it has the double sanction of law and of religion, with which the prince is no more authorized to dispense than any one else. And if any man will produce the Koran to me, and will but show me one text in it that authorizes in any degree an arbitrary power in the government, I will confess that I have read that book, and been conversant in the affairs of Asia, in vain. There is not such a syllable in it; but, on the contrary, against oppressors by name every

letter of that law is fulminated. There are interpreters established throughout all Asia to explain that law, an order of priesthood, whom they call *men of the law*. These men are conservators of the law; and to enable them to preserve it in its perfection, they are secured from the resentment of the sovereign: for he cannot touch them. Even their kings are not always vested with a real supreme power, but the government is in some degree republican.

To bring this point a little nearer home, — since we are challenged thus, since we are led into Asia, since we are called upon to make good our charge on the principles of the governments there, rather than on those of our own country, (which I trust your Lordships will oblige him finally to be governed by, puffed up as he is with the insolence of Asia,) — the nearest to us of the governments he appeals to is that of the Grand Seignior, the Emperor of the Turks. — *He* an arbitrary power! Why, he has not the supreme power of his own country. Every one knows that the Grand Seignior is exalted high in *titles*, as our prerogative lawyers exalt an abstract sovereign, — and he cannot be exalted higher in our books. I say he is destitute of the first character of sovereign power: he cannot lay a tax upon his people. The next part in which he misses of a sovereign power is, that he cannot dispose of the life, of the property, or of the liberty of any of his subjects, but by what is called the *fetwah*, or sentence of the law. He cannot declare peace or war without the same sentence of the law: so much is *he*, more than European sovereigns, a subject of strict law, that he cannot declare war or peace without it. Then, if he can neither touch

life nor property, if he cannot lay a tax on his subjects, or declare peace or war, I leave it to your Lordships' judgment, whether he can be called, according to the principles of that constitution, an arbitrary power. A Turkish sovereign, if he should be judged by the body of that law to have acted against its principles, (unless he happens to be secured by a faction of the soldiery,) is liable to be deposed on the sentence of that law, and his successor comes in under the strict limitations of the ancient law of that country: neither can he hold his place, dispose of his succession, or take any one step whatever, without being bound by law. Thus much may be said, when gentlemen talk of the affairs of Asia, as to the nearest of Asiatic sovereigns: and he is more Asiatic than European, he is a Mahomedan sovereign; and no Mahomedan is born who can exercise any arbitrary power at all, consistently with their constitution; insomuch that this chief magistrate, who is the highest executive power among them, is the very person who, by the constitution of the country, is the most fettered by law.

Corruption is the true cause of the loss of all the benefits of the constitution of that country. The *practice of Asia*, as the gentleman at your bar has thought fit to say, is what he holds to; the constitution he flies away from. The question is, whether you will take the constitution of the country as your rule, or the base practices of those usurpers, robbers, and tyrants who have subverted it. Undoubtedly, much blood, murder, false imprisonment, much peculation, cruelty, and robbery are to be found in Asia; and if, instead of going to the sa-

cred laws of the country, he chooses to resort to the iniquitous practices of it, and practices authorized only by public tumult, contention, war, and riot, he may indeed find as clear an acquittal in the practices as he would find condemnation in the institutions of it. He has rejected the law of England. Your Lordships will not suffer it. God forbid! For my part, I should have no sort of objection to let him choose his law, — Mahomedan, Tartarian, Gentoo. But if he disputes, as he does, the authority of an act of Parliament, let him state to me that law to which he means to be subject, or any law which he knows that will justify his actions. I am not authorized to say that I shall, even in that case, give up what is not in me to give up, because I represent an authority of which I must stand in awe; but, for myself, I shall confess that I am brought to public shame, and am not fit to manage the great interests committed to my charge. I therefore again repeat of that Asiatic government with which we are best acquainted, which has been constituted more in obedience to the laws of Mahomet than any other, that the sovereign cannot, agreeably to that constitution, exercise any arbitrary power whatever.

The next point for us to consider is, whether or no the Mahomedan constitution of India authorizes that power. The gentleman at your Lordships' bar has thought proper to say, that it will be happy for India, (though soon after he tells you it is an happiness they can never enjoy,) "when the despotic institutes of Genghiz Khân or Tamerlane shall give place to the liberal spirit of a British legislature; and," says he, "I shall be amply satisfied in my present prosecution, if it shall tend to hasten

the approach of an event so beneficial to the great interests of mankind."

My Lords, you have seen what he says about an act of Parliament. Do you not now think it rather an extraordinary thing, that any British subject should, in vindication of the authority which he has exercised, here quote the names and institutes, as he calls them, of fierce conquerors, of men who were the scourges of mankind, whose power was a power which they held by force only?

As to the institutes of Genghiz Khân, which he calls arbitrary institutes, I never saw them. If he has that book, he will oblige the public by producing it. I have seen a book existing, called Yassa of Genghiz Khân; the other I never saw. If there be any part of it to justify arbitrary power, he will produce it. But if we may judge by those ten precepts of Genghiz Khân which we have, there is not a shadow of arbitrary power to be found in any one of them. Institutes of arbitrary power! Why, if there is arbitrary power, there can be no institutes.

As to the institutes of Tamerlane, here they are in their original, and here is a translation. I have carefully read every part of these institutes; and if any one shows me one word in them in which the prince claims in himself arbitrary power, I again repeat, that I shall for my own part confess that I have brought myself to great shame. There is no book in the world, I believe, which contains nobler, more just, more manly, more pious principles of government than this book, called the Institutions of Tamerlane. Nor is there one word of arbitrary power in it, much less of that arbitrary power which Mr. Hastings supposes himself justified by, — namely, a delegated,

subordinate, arbitrary power. So far was that great prince from permitting this gross, violent, intermediate arbitrary power, that I will venture to say the chief thing by which he has recommended himself to posterity was a most direct declaration of all the wrath and indignation of the supreme government against it. But here is the book. It contains the institutes of the founder of the Mogul empire, left as a sacred legacy to his posterity, as a rule for their conduct, and as a means of preserving their power.

"BE it known to my fortunate sons, the conquerors of kingdoms, to my mighty descendants, the lords of the earth, that, since I have hope in Almighty God that many of my children, descendants, and posterity shall sit upon the throne of power and regal authority, upon this account, having established laws and regulations for the well governing of my dominions, I have collected together those regulations and laws as a model for others, to the end that, every one of my children, descendants, and posterity acting agreeably thereto, my power and empire, which I acquired through hardships and difficulties and perils and bloodshed, by the Divine favor, and by the influence of the holy religion of Mahomet, (God's peace be upon him!) and with the assistance of the powerful descendants and illustrious followers of that prophet, may be by them preserved. And let them make these regulations the rule of their conduct in the affairs of their empire, that the fortune and the power which shall descend from me to them may be safe from discord and dissolution.

"Now, therefore, be it known to my sons, the fortunate and the illustrious, to my descendants, the

mighty subduers of kingdoms, that, in like manner as I by twelve maxims, which I established as the rule of my conduct, attained to regal dignity, and with the assistance of these maxims conquered and governed kingdoms, and decorated and adorned the throne of my empire, let them also act according to these regulations, and preserve the splendor of mine and their dominions.

"And among the rules which I established for the support of my glory and empire, the *first* was this, — that I promoted the worship of Almighty God, and propagated the religion of the sacred Mahomet throughout the world, and at all times and in all places supported the true faith.

"*Secondly*. With the people of the twelve classes and tribes I conquered and governed kingdoms, and with them I strengthened the pillars of my fortune, and from them I formed my assembly.

"*Thirdly*. By consultation and deliberation and provident measures, by caution and by vigilance, I vanquished armies, and I reduced kingdoms to my authority. And I carried on the business of my empire by complying with times and occasions, and by generosity, and by patience, and by policy; and I acted with courteousness towards my friends and towards my enemies.

"*Fourthly*. By order and by discipline I regulated the concerns of my government; and by discipline and by order I so firmly established my authority, that the emirs and the viziers and the soldiers and the subjects could not aspire beyond their respective degrees; and every one of them was the keeper of his own station.

"*Fifthly*. I gave encouragement to my emirs and

to my soldiers, and with money and with jewels I made them glad of heart; and I permitted them to come into the banquet; and in the field of blood they hazarded their lives. And I withheld not from them my gold nor my silver. And I educated and trained them to arms; and to alleviate their sufferings, I myself shared in their labors and in their hardships, until with the arm of fortitude and resolution, and with the unanimity of my chiefs and my generals and my warriors, by the edge of the sword, I obtained possession of the thrones of seven-and-twenty kings, and became the king and the ruler of the kingdoms of Eraun, and of Tooraun, and of Room, and of Mughrib, and of Shaum, and of Missur, and of Erauk-a-Arrub, and of Ajjum, and of Mauzinduraun, and of Kylaunaut, and of Shurvaunaut, and of Azzurbauejaun, and of Fauris, and of Khorausaun, and of the Dusht of Jitteh, and the Dusht of Kipchauk, and of Khauruzm, and Khuttun, and of Kauboolistaun, and of Hindostaun, and of Bauktur Zemeen.

"And when I clothed myself in the robe of empire, I shut my eyes to safety, and to the repose which is found on the bed of ease. And from the twelfth year of my age I travelled over countries, and combated difficulties, and formed enterprises, and vanquished armies, and experienced mutinies amongst my officers and my soldiers, and was familiarized to the language of disobedience; and I opposed them with policy and with fortitude, and I hazarded my person in the hour of danger; until in the end I vanquished kingdoms and empires, and established the glory of my name.

"*Sixthly.* By justice and equity I gained the affec-

tions of the people of God; and I extended my clemency to the guilty as well as to the innocent; and I passed that sentence which truth required; and by benevolence I gained a place in the hearts of men; and by rewards and punishments I kept both my troops and my subjects divided between hope and fear. And I compassionated the lower ranks of my people, and those who were distressed. And I gave gifts to the soldiers.

"And I delivered the oppressed from the hand of the oppressor; and after proof of the oppression, whether on the property or the person, the decision which I passed between them was agreeable to the sacred law. And I did not cause any one person to suffer for the guilt of another.

"Those who had done me injuries, who had attacked my person in battle, and had counteracted my schemes and enterprises, when they threw themselves on my mercy, I received them with kindness, I conferred on them additional honors, and I drew the pen of oblivion over their evil actions; and I treated them in such sort, that, if suspicion remained in their hearts, it was plucked out entirely.

"*Seventhly.* I selected out, and treated with esteem and veneration, the posterity of the Prophet, and the theologians, and the teachers of the true faith, and the philosophers, and the historians. And I loved men of courage and valor; for God Almighty loveth the brave. And I associated with good and learned men; and I gained their affections, and I entreated their support, and I sought success from their holy prayers. And I loved the dervishes and the poor; and I oppressed them not, neither did I exclude them from my favor. And I permitted not the evil and the ma-

levolent to enter into my council; and I acted not by their advice; and I listened not to their insinuations to the prejudice of others.

"*Eighthly.* I acted with resolution; and on whatever undertaking I resolved, I made that undertaking the only object of my attention; and I withdrew not my hand from that enterprise, until I had brought it to a conclusion. And I acted according to that which I said. And I dealt not with severity towards any one, and I was not oppressive in any of my actions; that God Almighty might not deal severely towards me, nor render my own actions oppressive unto me.

"And I inquired of learned men into the laws and regulations of ancient princes, from the days of Adam to those of the Prophet, and from the days of the Prophet down to this time. And I weighed their institutions and their actions and their opinions, one by one. And from their approved manners and their good qualities I selected models. And I inquired into the causes of the subversion of their power, and I shunned those actions which tend to the destruction and overthrow of regal authority. And from cruelty and from oppression, which are the destroyers of posterity and the bringers of famine and of plagues, I found it was good to abstain.

"*Ninthly.* The situation of my people was known unto me. And those who were great among them I considered as my brethren; and I regarded the poor as my children. And I made myself acquainted with the tempers and the dispositions of the people of every country and of every city. And I contracted intimacies with the citizens and the chiefs and the nobles; and I appointed over them governors adapted to their manners and their dispositions and their

wishes. And I knew the circumstances of the inhabitants of every province. And in every kingdom I appointed writers of intelligence, men of truth and integrity, that they might send me information of the conduct and the behavior and the actions and the manners of the troops and of the inhabitants, and of every occurrence that might come to pass amongst them. And if I discovered aught contrary to their information, I inflicted punishment on the intelligencer; and every circumstance of cruelty and oppression in the governors and in the troops and in the inhabitants, which reached my ears, I chastised agreeably to justice and equity.

"*Tenthly.* Whatever tribe, and whatever horde, whether Toork, or Taucheek, or Arrub, or Ajjum, came in unto me, I received their chiefs with distinction and respect, and their followers I honored according to their degrees and their stations; and to the good among them I did good, and the evil I delivered over to their evil actions.

"And whoever attached himself unto me, I forgot not the merit of his attachment, and I acted towards him with kindness and generosity; and whoever had rendered me services, I repaid the value of those services unto him. And whoever had been my enemy, and was ashamed thereof, and, flying to me for protection, humbled himself before me, I forgot his enmity, and I purchased him with liberality and kindness.

"In such manner Share Behraum, the chief of a tribe, was along with me. And he left me in the hour of action, and he united with the enemy, and he drew forth his sword against me. And at length my salt, which he had eaten, seized upon him; and

he again fled to me for refuge, and humbled himself before me. As he was a man of illustrious descent, and of bravery, and of experience, I covered my eyes from his evil actions; and I magnified him, and I exalted him to a superior rank, and I pardoned his disloyalty in consideration of his valor.

"*Eleventhly.* My children, and my relations, and my associates, and my neighbors, and such as had been connected with me, all these I distinguished in the days of my fortune and prosperity, and I paid unto them their due. And with respect to my family, I rent not asunder the bands of consanguinity and mercy; and I issued not commands to slay them, or to bind them with chains.

"And I dealt with every man, whatever the judgment I had formed of him, according to my own opinion of his worth. As I had seen much of prosperity and adversity, and had acquired knowledge and experience, I conducted myself with caution and with policy towards my friends and towards my enemies.

"*Twelfthly.* Soldiers, whether associates or adversaries, I held in esteem, — those who sell their permanent happiness to perishable honor, and throw themselves into the field of slaughter and battle, and hazard their lives in the hour of danger.

"And the man who drew his sword on the side of my enemy, and committed hostilities against me, and preserved his fidelity to his master, him I greatly honored; and when such a man came unto me, knowing his worth, I classed him with my faithful associates; and I respected and valued his fidelity and his attachment.

"And the soldier who forgot his duty and his

honor, and in the hour of action turned his face from his master, and came in unto me, I considered as the most detestable of men.

"And in the war between Touktummish Khaun, his emirs forgot their duty to Touktummish, who was their master and my foe, and sent proposals and wrote letters unto me. And I uttered execrations upon them, because, unmindful of that which they owed to their lord, they had thrown aside their honor and their duty, and came in unto me. I said unto myself, 'What fidelity have they observed to their liege lord? what fidelity will they show unto me?'

"And, behold, it was known unto me by experience, that every empire which is not established in morality and religion, nor strengthened by regulations and laws, from that empire all order, grandeur, and power shall pass away. And that empire may be likened unto a naked man, who, when exposed to view, commandeth the eye of modesty to be covered; and it is like unto a house which hath neither roof nor gates nor defences, into which whoever willeth may enter unmolested.

"THEREFORE I established the foundation of my empire on the morality and the religion of Islaum; and by regulations and laws I gave it stability. And by laws and by regulations I executed every business and every transaction that came before me in the course of my government."

I need not read any further, or I might show your Lordships the noble principles, the grand, bold, and manly maxims, the resolution to abstain from oppression himself, and to crush it in the govern-

ors under him, to be found in this book, which Mr. Hastings has thought proper to resort to as containing what he calls arbitrary principles.

But it is not in this instance only that I must do justice to the East. I assert that their morality is equal to ours, in whatever regards the duties of governors, fathers, and superiors; and I challenge the world to show in any modern European book more true morality and wisdom than is to be found in the writings of Asiatic men in high trust, and who have been counsellors to princes. If this be the true morality of Asia, as I affirm and can prove that it is, the plea founded on Mr. Hastings's geographical morality is annihilated.

I little regard the theories of travellers, where they do not relate the facts on which they are founded. I have two instances of facts attested by Tavernier, a traveller of power and consequence, which are very material to be mentioned here, because they show that in some of the instances recorded, in which the princes of the country have used any of those cruel and barbarous executions which make us execrate them, it has been upon governors who have abused their trust, — and that this very Oriental authority to which Mr. Hastings appeals would have condemned him to a dreadful punishment. I thank God, and I say it from my heart, that even for his enormous offences there neither is nor can be anything like such punishments. God forbid that we should not as much detest out-of-the-way, mad, furious, and unequal punishments as we detest enormous and abominable crimes! because a severe and cruel penalty for a crime of a light nature is as bad and iniquitous as

the crime which it pretends to punish. As the instances I allude to are curious, and as they go to the principles of Mr. Hastings's defence, I shall beg to quote them.

The first is upon a governor who did what Mr. Hastings says he has a power delegated to him to do: he levied a tax without the consent of his master. "Some years after my departure from Com," says Tavernier, "the governor had, of his own accord, and without any communication with the king, laid a small impost upon every pannier of fruit brought into the city, for the purpose of making some necessary reparations in the walls and bridges of the town. It was towards the end of the year 1632 that the event I am going to relate happened. The king, being informed of the impost which the governor had laid upon the fruit, ordered him to be brought in chains to court. The king ordered him to be exposed to the people at one of the gates of the palace; then he commanded the son to pluck off the mustachios of his father, to cut off his nose and ears, to put out his eyes, and then cut off his head. The king then told the son to go and take possession of the government of his father, saying, *See that you govern better than this deceased dog, or thy doom shall be a death more exquisitely tormenting.*"

My Lords, you are struck with horror, I am struck with horror, at this punishment. I do not relate it to approve of such a barbarous act, but to prove to your Lordships, that, whatever power the princes of that country have, they are jealous of it to such a degree, that, if any of their governors should levy a tax, even the most insignificant, and for the best purposes, he meets with a cruel punishment. I do

not justify the punishment; but the severity of it shows how little of their power the princes of that country mean to delegate to their servants, the whole of which the gentleman at your bar says was delegated to him.

There is another case, a very strong one, and that is the case of presents, which I understand is a custom admitted throughout Asia in all their governments. It was of a person who was raised to a high office; no business was suffered to come before him without a previous present. "One morning, the king being at this time on a hunting party, the *nazar* came to the tent of the king, but was denied entrance by the *meter*, or master of the wardrobe. About the same time the king came forth, and, seeing the nazar, commanded his officers to take off the bonnet from the head of that dog that took gifts from his people, and that he should sit three days bareheaded in the heat of the sun, and as many nights in the air. Afterwards he caused him to be chained about the neck and arms, and condemned him to perpetual imprisonment, with a *mamoudy* a day for his maintenance; but he died for grief within eight days after he was put in prison."

Do I mean, by reading this to your Lordships, to express or intimate an approbation either of the cruelty of the punishment or of the coarse barbarism of the language? Neither one nor the other. I produce it to your Lordships to prove to you, from this dreadful example, the horror which that government felt, when any person subject to it assumed to himself a privilege to receive presents. The cruelty and severity exercised by these princes is not levelled at the poor unfortunate people who complain at their

gates, but, to use their own barbarous expression, *to dogs that impose taxes and take presents*. God forbid I should use that language! The people, when they complain, are not called dogs and sent away, but the governors, who do these things against the people: they are called dogs, and treated in that cruel manner. I quote them to show that no governors in the East, upon any principle of their constitution or any good practice of their government, can lay arbitrary imposts or receive presents. When they escape, it is probably by bribery, by corruption, by creating factions for themselves in the seraglio, in the country, in the army, in the divan. But how they escape such punishments is not my business to inquire; it is enough for me that the constitution disavows them, that the princes of the country disavow them, — that they revile them with the most horrible expressions, and inflict dreadful punishments on them, when they are called to answer for these offences.

Thus much concerning the Mahomedan laws of Asia. That the people of Asia have no laws, rights, or liberty, is a doctrine that wickedly is to be disseminated through this country. But I again assert, every Mahomedan government is, by its principles, a government of law.

I shall now state, from what is known of the government of India, that it does not and cannot delegate, as Mr. Hastings has frequently declared, the whole of its powers and authority to him. If they are absolute, as they must be in the supreme power, they ought to be arbitrary in none; they were, however, never absolute in any of their subordinate parts, and I will prove it by the known provincial constitu-

tions of Hindostan, which are all Mahomedan, the laws of which are as clear, as explicit, and as learned as ours.

The first foundation of their law is the *Koran*. The next part is the *Fetwah*, or adjudged cases by proper authority, well known there. The next, the written interpretations of the principles of jurisprudence: and their books are as numerous upon the principles of jurisprudence as in any country in Europe. The next part of their law is what they call the *Kanon*,—that is, a positive rule equivalent to acts of Parliament, the law of the several powers of the country, taken from the Greek word *Κανών*, which was brought into their country, and is well known. The next is the *Rawaj-ul-Mulk*, or common law and custom of the kingdom, equivalent to our common law. Therefore they have laws from more sources than we have, exactly in the same order, grounded upon the same authority, fundamentally fixed to be administered to the people upon these principles.

The next thing is to show that in India there is a partition of the powers of the government, which proves that there is no absolute power delegated.

In every province the first person is the *Subahdar* or *Nazim*, or Viceroy: he has the power of the sword, and the administration of criminal justice only. Then there is the *Dewan*, or High Steward: he has the revenue and all exchequer causes under him, to be governed according to the law and custom and institutions of the kingdom. The law of inheritances, successions, and everything that relates to them, is under the *Cadi*, in whose court these matters are tried. But this, too, was subdivided. The Cadi could not judge, but by the advice of his assessors. Properly

in the Mahomedan law there is no appeal, only a removal of the cause; but when there is no judgment, as none can be when the court is not unanimous, it goes to the general assembly of all the men of the law. There are, I will venture to say, other divisions and subdivisions; for there are the *Kanongoes*, who hold their places for life, to be the conservators of the canons, customs, and good usages of the country: all these, as well as the Cadi and the Mufti, hold their places and situations, not during the wanton pleasure of the prince, but on permanent and fixed terms for life. All these powers of magistracy, revenue, and law are all different, consequently not delegated in the whole to any one person.

This is the provincial constitution, and these the laws of Bengal; which proves, if there were no other proof, by the division of the functions and authorities, that the supreme power of the state in the Mogul empire did by no means delegate to any of its officers the supreme power in its fulness. Whether or no we have delegated to Mr. Hastings the supreme power of King and Parliament, that he should act with the plenitude of authority of the British legislature, you are to judge.

Mr. Hastings has no refuge here. Let him run from law to law; let him fly from the common law and the sacred institutions of the country in which he was born; let him fly from acts of Parliament, from which his power originated; let him plead his ignorance of them, or fly in the face of them. Will he fly to the Mahomedan law? That condemns him. Will he fly to the high magistracy of Asia to defend taking of presents? Padishah and the Sultan would condemn him to a cruel death. Will he fly to the

Sophis, to the laws of Persia, or to the practice of those monarchs? I cannot utter the pains, the tortures, that would be inflicted on him, if he were to govern there as he has done in a British province. Let him fly where he will, from law to law; law, I thank God, meets him everywhere, and enforced, too, by the practice of the most impious tyrants, which he quotes as if it would justify his conduct. I would as willingly have him tried by the law of the Koran, or the Institutes of Tamerlane, as on the common law or statute law of this kingdom.

The next question is, whether the Gentoo laws justify arbitrary power: and if he finds any sanctuary there, let him take it, with the cow in the pagoda. The Gentoos have a law which positively proscribes in magistrates any idea of will, — a law with which, or rather with extracts of it, that gentleman himself has furnished us. These people in many points are governed by their own ancient written law, called the *Shaster*. Its interpreters and judges are the *Pundits*. This law is comprehensive, extending to all the concerns of life, affording principles and maxims and legal theories applicable to all cases, drawn from the sources of natural equity, modified by their institutions, full of refinement and subtilty of distinction equal to that of any other law, and has the grand test of all law, that, wherever it has prevailed, the country has been populous, flourishing, and happy.

Upon the whole, then, follow him where you will, let him have Eastern or Western law, you find everywhere arbitrary power and peculation of governors proscribed and horribly punished, — more so than I should ever wish to punish any, the most guilty, human creature. And if this be the case, as I hope

and trust it has been proved to your Lordships, that there is law in these countries, that there is no delegation of power which exempts a governor from the law, then I say at any rate a British governor is to answer for his conduct, and cannot be justified by wicked examples and profligate practices.

But another thing which he says is, that he was left to himself, to govern himself by his own practice: that is to say, when he had taken one bribe, he might take another; when he had robbed one man of his property, he might rob another; when he had imprisoned one man arbitrarily, and extorted money from him, he might do so by another. He resorts at first to the practice of barbarians and usurpers; at last he comes to his own. Now, if your Lordships will try him by such maxims and principles, he is certainly clear: for there is no manner of doubt that there is nothing he has practised once which he has not practised again; and then the repetition of crimes becomes the means of his indemnity.

The next pleas he urges are not so much in bar of the impeachment as in extenuation. The first are to be laid by as claims to be made on motion for arrest of judgment, the others as an extenuation or mitigation of his fine. He says, and with a kind of triumph, "The ministry of this country have great legal assistance, — commercial lights of the greatest commercial city in the world, — the greatest generals and officers to guide and direct them in military affairs: whereas I, poor man, was sent almost a school-boy from England, or at least little better, — sent to find my way in that new world as well as I could. I had no men of the law, no legal assistance, to supply my deficiencies." *At Sphingem habebas domi.* Had he

not the chief-justice, the tamed and domesticated chief-justice, who waited on him like a familiar spirit, whom he takes from province to province, his amanuensis at home, his postilion and riding express abroad?

Such a declaration would in some measure suit persons who had acted much otherwise than Mr. Hastings. When a man pleads ignorance in justification of his conduct, it ought to be an humble, modest, unpresuming ignorance, an ignorance which may have made him lax and timid in the exercise of his duty; but an assuming, rash, presumptuous, confident, daring, desperate, and disobedient ignorance heightens every crime that it accompanies. Mr. Hastings, if through ignorance he left some of the Company's orders unexecuted, because he did not understand them, might well say, "I was an ignorant man, and these things were above my capacity." But when he understands them, and when he declares he will not obey them, positively and dogmatically, — when he says, as he has said, and we shall prove it, *that he never succeeds better than when he acts in an utter defiance of those orders*, and sets at nought the laws of his country, — I believe this will not be thought the language of an ignorant man. But I beg your Lordships' pardon: it is the language of an ignorant man; for no man who was not full of a bold, determined, profligate ignorance could ever think of such a system of defence. He quitted Westminster School almost a boy. We have reason to regret that he did not finish his education in that noble seminary, which has given so many luminaries to the Church and ornaments to the State. Greatly it is to be lamented that he did not go to those Universities where arbitrary

power will I hope never be heard of, but the true principles of religion, of liberty, and law will ever be inculcated, instead of studying in the school of Cossim Ali Khân.

If he had lived with us, he would have quoted the example of Cicero in his government, he would have quoted several of the sacred and holy prophets, and made *them* his example. His want of learning, profane as well as sacred, reduces him to the necessity of appealing to every name and authority of barbarism, tyranny, and usurpation that are to be found; and from these he says, "From the practice of one part of Asia or other I have taken my rule." But your Lordships will show him that in Asia as well as in Europe the same law of nations prevails, the same principles are continually resorted to, and the same maxims sacredly held and strenuously maintained, and, however disobeyed, no man suffers from the breach of them who does not know how and where to complain of that breach, — that Asia is enlightened in that respect as well as Europe; but if it were totally blinded, that England would send out governors to teach them better, and that he must justify himself to the piety, the truth, the faith of England, and not by having recourse to the crimes and criminals of other countries, to the barbarous tyranny of Asia, or any other part of the world.

I will go further with Mr. Hastings, and admit, that, if there be a boy in the fourth form of Westminster School, or any school in England, who does not know, when these articles are read to him, that he has been guilty of gross and enormous crimes, he may have the shelter of his present plea, as far as it will serve him. There are none of us, thank God, so

uninstructed, who have learned our catechisms or the first elements of Christianity, who do not know that such conduct is not to be justified, and least of all by examples.

There is another topic he takes up more seriously, and as a general rebutter to the charge. Says he, "After a great many of these practices with which I am charged, Parliament appointed me to my trust, and consequently has acquitted me."—Has it, my Lords? I am bold to say that the Commons are wholly guiltless of this charge. I will admit, if Parliament, on a full state of his offences before them, and full examination of those offences, had appointed him to the government, that then the people of India and England would have just reason to exclaim against so flagitious a proceeding. A sense of propriety and decorum might have restrained us from prosecuting. They might have been restrained by some sort of decorum from pursuing him criminally. But the Commons stand before your Lordships without shame. First, in their name we solemnly assure your Lordships that we had not in our Parliamentary capacity (and most of us, myself I can say surely, heard very little, and that in confused rumors) the slightest knowledge of any one of the acts charged upon this criminal at either of the times of his being appointed to office, and that we were not guilty of the nefarious act of collusion and flagitious breach of trust with which he presumes obliquely to charge us; but from the moment we knew them, we never ceased to condemn them by reports, by votes, by resolutions, and that we admonished and declared it to be the duty of the Court of Directors to take measures for his recall, and when frustrated in the way known to that court

we then proceeded to an inquiry. Your Lordships know whether you were better informed. We are, therefore, neither guilty of the precedent crime of colluding with the criminal, nor the subsequent indecorum of prosecuting what we had virtually and practically approved.

Secondly, several of his worst crimes have been committed since the last Parliamentary renewal of his trust, as appears by the dates in the charge.

But I believe, my Lords, the judges — judges to others, grave and weighty counsellors and assistants to your Lordships — will not, on reference, assert to your Lordships, (which God forbid, and we cannot conceive, or hardly state in argument, if but for argument,) that, if one of the judges had received bribes before his appointment to an higher judiciary office, he would not still be open to prosecution.

So far from admitting it as a plea in bar, we charge, and we hope your Lordships will find it an extreme aggravation of his offences, that no favors heaped upon him could make him grateful, no renewed and repeated trusts could make him faithful and honest.

We have now gone through most of the general topics.

But he is not responsible, as being thanked by the Court of Directors. He has had the thanks and approbation of the India Company for his services. — We know too well here, I trust the world knows, and you will always assert, that a pardon from the crown is not pleadable here, that it cannot bar the impeachment of the Commons, — much less a pardon of the East India Company, though it may involve them in guilt which might induce us to punish them for such

a pardon. If any corporation by collusion with criminals refuse to do their duty in coercing them, the magistrates are answerable.

It is the use, virtue, and efficacy of Parliamentary judicial procedure, that it puts an end to this dominion of faction, intrigue, cabal, and clandestine intelligences. The acts of men are put to their proper test, and the works of darkness tried in the face of day, — not the corrupted opinions of others on them, but their own intrinsic merits. We charge it as his crime, that he bribed the Court of Directors to thank him for what they had condemned as breaches of his duty.

The East India Company, it is true, have thanked him. They ought not to have done it; and it is a reflection upon their character that they did it. But the Directors praise him in the gross, after having condemned each act in detail. His actions are *all*, every one, censured one by one as they arise. I do not recollect any one transaction, few there are, I am sure, in the whole body of that succession of crimes now brought before you for your judgment, in which the India Company have not censured him. Nay, in one instance he pleads their censure in bar of this trial;* for he says, "In that censure I have already received my punishment." If, for any other reasons, they come and say, "We thank you, Sir, for all your services," to that I answer, Yes; and *I* would thank him for his services, too, if I knew them. But *I* do not; — perhaps *they* do. Let them thank him for those services. I am ordered to prosecute him for these crimes. Here, therefore, we are on a balance with the India Company; and your Lordships may

* See Mr. Hastings's answer to the first charge.

perhaps think it some addition to his crimes, that he has found means to obtain the thanks of the India Company for the whole of his conduct, at the same time that their records are full of constant, uniform, particular censure and reprobation of every one of those acts for which he now stands accused.

He says, there is the testimony of Indian princes in his favor. But do we not know how seals are obtained in that country? Do we not know how those princes are imposed upon? Do we not know the subjection and thraldom in which they are held, and that they are obliged to return thanks for the sufferings which they have felt? I believe your Lordships will think that there is not, with regard to some of these princes, a more dreadful thing that can be said of them than that he has obtained their thanks.

I understand he has obtained the thanks of the miserable Princesses of Oude, whom he has cruelly imprisoned, whose treasure he has seized, and whose eunuchs he has tortured.* They thank him for going away; they thank him for leaving them the smallest trifle of their subsistence; and I venture to say, if he wanted a hundred more panegyrics, provided he never came again among them, he might have them. I understand that Mahdajee Sindia has made his panegyric, too. Mahdajee Sindia has not made his panegyric for nothing; for, if your Lordships will suffer him to enter into such a justification, we shall prove that he has sacrificed the dignity of this country and the interests of all its allies to that prince. We appear here neither with panegyric nor with satire; it is for substantial crimes we bring him be-

* A Latin sentence, which was quoted here, is omitted in the MS. of the short-hand writer. — Ed.

fore you, and amongst others for cruelly using persons of the highest rank and consideration in India; and when we prove he has cruelly injured them, you will think the panegyrics either gross forgeries or most miserable aggravations of his offences, since they show the abject and dreadful state into which he has driven those people. For let it be proved that I have cruelly robbed and maltreated any persons, if I produce a certificate from them of my good behavior, would it not be a corroborative proof of the terror into which those persons are thrown by my misconduct?

My Lords, these are, I believe, the general grounds of our charge. I have now closed completely, and I hope to your Lordships' satisfaction, the whole body of history of which I wished to put your Lordships in possession. I do not mean that many of your Lordships may not have known it more perfectly by your own previous inquiries; but, bringing to your remembrance the state of the circumstances of the persons with whom he acted, the persons and power he has abused, I have gone to the principles he maintains, the precedents he quotes, the laws and authorities which he refuses to abide by, and those on which he relies; and at last I have refuted all those pleas in bar on which he depends, and for the effect of which he presumes on the indulgence and patience of this country, or on the corruption of some persons in it. And here I close what I had to say upon this subject, — wishing and hoping, that, when I open before your Lordships the case more particularly, so as to state rather a plan of the proceeding than the direct proof of the crimes, your Lordships will hear me with the

same goodness and indulgence I have hitherto experienced, — that you will consider, if I have detained you long, it was not with a view of exhausting my own strength, or putting your patience to too severe a trial, but from the sense I feel that it is the most difficult and the most complicated cause that was ever brought before any human tribunal. Therefore I was resolved to bring the whole substantially before you. And now, if your Lordships will permit me, I will state the method of my future proceeding, and the future proceeding of the gentlemen assisting me.

I mean first to bring before you the crimes as they are classed, and are of the same species and genus, and how they mutually arose from one another. I shall first show that Mr. Hastings's crimes had root in that which is the root of all evil, I mean avarice; that avarice and rapacity were the groundwork and foundation of all his other vicious system; that he showed it in setting to sale the native government of the country, in setting to sale the whole landed interest of the country, in setting to sale the British government and his own fellow-servants, to the basest and wickedest of mankind.

I shall then show your Lordships, that, when, in consequence of such a body of corruption and peculation, he justly dreaded the indignation of his country and the vengeance of its laws, in order to raise himself a faction embodied by the same guilt and rewarded in the same manner, he has, with a most abandoned profusion, thrown away the revenues of the country to form such a faction here.

I shall next show your Lordships, that, having exhausted the resources of the Company, and brought it to extreme difficulties within, he has looked to his

external resources, as he calls them; he has gone up into the country. I will show that he has plundered, or attempted to plunder, every person dependent upon, connected, or allied with this country.

We shall afterwards show what infinite mischief has followed in the case of Benares, upon which he first laid his hands; next, in the case of the Begums of Oude.

We shall then lay before you the profligate system by which he endeavored to oppress that country: first by Residents; next by spies under the name of British Agents; and lastly, that, pursuing his way up to the mountains, he has found out one miserable chief, whose crimes were the prosperity of his country, — that him he endeavored to torture and destroy, — I do not mean in his body, but by exhausting the treasures which he kept for the benefit of his people.

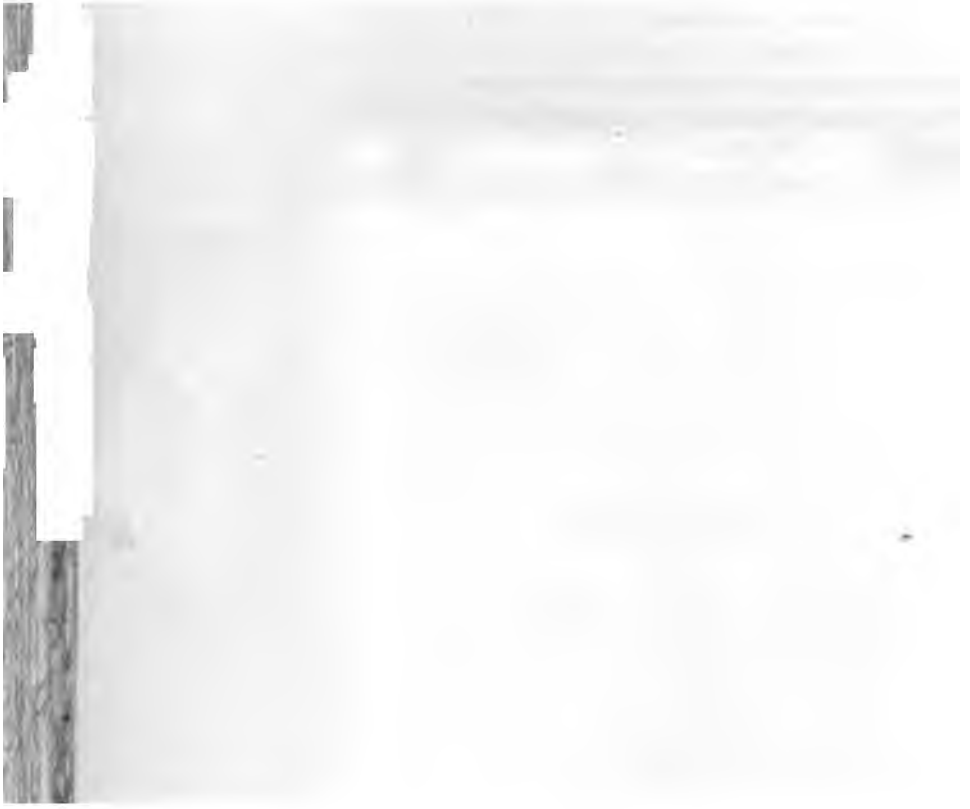
In short, having shown your Lordships that no man who is in his power is safe from his arbitrary will, — that no man, within or without, friend, ally, rival, has been safe from him, — having brought it to this point, if I am not able in my own person immediately to go up into the country and show the ramifications of the system, (I hope and trust I shall be spared to take my part in pursuing him through both,) if I am not, I shall go at least to the root of it, and some other gentleman, with a thousand times more ability than I possess, will take up each separate part in its proper order. And I believe it is proposed by the managers that one of them shall as soon as possible begin with the affair of Benares.

The point I now mean first to bring before your Lordships is the corruption of Mr. Hastings, his system of peculation and bribery, and to show your Lord-

ships the horrible consequences which resulted from it: for, at first sight, bribery and peculation do not seem to be so horrid a matter; they may seem to be only the transferring a little money out of one pocket into another; but I shall show that by such a system of bribery the country is undone.

I shall inform your Lordships in the best manner I can, and afterwards submit the whole, as I do with a cheerful heart and with an easy and assured security, to that justice which is the security for all the other justice in the kingdom.

END OF VOL. IX.



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